

# HOUSE JOURNAL

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SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

SEVENTY-NINTH DAY — TUESDAY, MAY 23, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 505).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent — Bailey; Ehrhardt; Goolsby; Hawley; Tillery.

The invocation was offered by Reverend Paul Gauntt, Baptist Mission Association of Texas, Waxahachie, as follows:

Let us pray. Our Heavenly Father we come to you just now with grateful hearts, we're grateful to be a Texan, grateful to be an American. I thank you for this privilege of being among these whose duties and responsibility it is to guide and to lead the affairs of our great state. We ask your richest blessings upon each one and upon each home represented. We know, Father, that it is a thankless job many times. We know that there is loneliness because they are separated from family. We know that there is rejection because they receive unkind letters sometimes and harsh criticism, but Dear Father help them to understand that they are performing a vital task and vital duty to mankind and that they are shaping the destinies of millions of people and help them to know that you love them. And would you grant to them your divine leadership and wisdom. Father we acknowledge your holiness, your righteousness, we acknowledge your love and mercy. In the name of Christ we pray. Amen.

## CAPITOL PHYSICIAN

Speaker Laney presented Dr. Dewitt Harvey of Corpus Christi as the "Doctor for the Day."

The house welcomed Dr. Harvey and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### **SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**HB 29, HB 941, HB 1329, HB 1434, HB 1644, HB 1763, HB 1792, HB 1956, HB 2012, HB 2230, HB 2314, HB 2365, HB 2390, HB 3062, HCR 4, HCR 92, HCR 200, HCR 219**

### **HR 1026 - ADOPTED**

Representative Farrar moved to suspend all necessary rules to take up and consider at this time **HR 1026**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Farrar,

**HR 1026**, In memory of Adelaida Reyes.

The resolution was unanimously adopted by a rising vote.

### **HR 949 - ADOPTED**

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 949**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Raymond,

**HR 949**, In memory of Tony Reyes.

The resolution was read and was unanimously adopted by a rising vote.

(Hawley now present)

### **INTRODUCTION OF GUESTS**

The speaker recognized Representative Raymond, who introduced the family of Tony Reyes.

### **PRESENTATION BY TEXAS LEGISLATIVE BLACK CAUCUS TO THE FAMILY OF THE HONORABLE ROBERT E. JOHNSON**

On behalf of the Texas Legislative Black Caucus, Representative Thompson presented a plaque to the family of the Honorable Robert E. Johnson, honoring him for his service to the State of Texas.

Parliamentarian Robert I. Kelly accepted the plaque for the family.

### **INTRODUCTION OF GUEST**

The speaker recognized Representatives Coleman and Wilson, who introduced Dr. Joann Horton, president of Texas Southern University.

**HR 778**, honoring Dr. Joann Horton, having been previously adopted, was read.

(Bailey now present)

**SB 14 - REQUEST OF SENATE GRANTED**

On motion of Representative Combs, the house granted the request of the senate for the appointment of a conference committee on **SB 14**.

**SB 14 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 14**: Combs, chair, Saunders, Black, B. Turner, and Alexander.

**SB 95 - REQUEST OF SENATE GRANTED**

On motion of Representative Maxey, the house granted the request of the senate for the appointment of a conference committee on **SB 95**.

**SB 95 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 95**: Hilderbran, chair, Horn, Moffat, Uher, and Chisum.

**SB 172 - REQUEST OF SENATE GRANTED**

On motion of Representative Puente, the house granted the request of the senate for the appointment of a conference committee on **SB 172**.

**SB 172 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 172**: Puente, chair, Uher, Solomons, H. Cuellar, and T. Hunter.

**SB 1190 - REQUEST OF SENATE GRANTED**

On motion of Representative Maxey, the house granted the request of the senate for the appointment of a conference committee on **SB 1190**.

**SB 1190 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1190**: Maxey, chair, Coleman, McDonald, Berlanga, and Howard.

**SB 1513 - REQUEST OF SENATE GRANTED**

On motion of Representative Alexander, the house granted the request of the senate for the appointment of a conference committee on **SB 1513**.

**SB 1513 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1513**: Alexander, chair, Bosse, Siebert, Clemons, and Alonzo.

**SJR 51 - REQUEST OF SENATE GRANTED**

On motion of Representative Patterson, the house granted the request of the senate for the appointment of a conference committee on **SJR 51**.

**SJR 51 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SJR 51**: Patterson, chair, Kubiak, Marchant, Black, and Junell.

**SCR 59 - REQUEST OF SENATE GRANTED**

On motion of Representative Berlanga, the house granted the request of the senate for the appointment of a conference committee on **SCR 59**.

**SCR 59 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SCR 59**: Berlanga, chair, Maxey, Delisi, Hirschi, and Glaze.

**SB 45 - REQUEST OF SENATE GRANTED**

On motion of Representative Berlanga, the house granted the request of the senate for the appointment of a conference committee on **SB 45**.

**SB 45 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 45**: Wolens, chair, Place, Talton, Pickett, and Greenberg.

**HR 1035 - ADOPTED**

Representative Combs moved to suspend all necessary rules to take up and consider at this time **HR 1035**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Combs,

**HR 1035**, Congratulating Kent Ewing on being named the 1995 Texas High School Principal of the Year.

The resolution was adopted without objection.

**HR 988 - ADOPTED**

Representative Rusling moved to suspend all necessary rules to take up and consider at this time **HR 988**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Rusling,

**HR 988**, Honoring the Red Sox baseball team of the Manchaca Optimist Pony Baseball Pinto Division-American Conference.

The resolution was adopted without objection.

### INTRODUCTION OF GUEST

The speaker recognized Representative Rusling, who introduced a member of the Red Sox baseball team of the Manchaca Optimist Pony Baseball Pinto Division-American Conference.

(Goolsby now present)

### CSSB 15 - (unfinished business)

#### Amendment No. 51

Representative Kubiak offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered section to read as follows:

SECTION Subchapter G, Chapter 466, Government Code, is amended by adding Section 466.317 to read as follows:

Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY TICKETS. (a) Except as permitted by a compact entered into under Subsection (b), a person may not sell or offer for sale in this state any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.

(b) The state may enter into a compact with another state or state government or an Indian tribe or tribal government to permit the sale of lottery tickets of this state in the state's, tribe's, or government's jurisdiction and to allow the sale of the state's, tribe's, or government's lottery tickets in this state.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

#### Amendment No. 52

Representative Kubiak offered the following amendment to Amendment No. 51:

Amend Amendment No. 51 by Kubiak to **CSSB 15** as follows:

On line 13 after the word state and before the word may add the following: , through the office of the governor,

The new Section (b) will read as follows:

(b) The state, through the office of the governor, may enter into a compact with another state or state government or an Indian tribe or tribal government to permit the sale of lottery tickets of this state in the state's, tribe's, or government's jurisdiction and to allow the sale of the state's, tribe's, or government's lottery tickets in this state.

Amendment No. 52 was adopted without objection.

Amendment No. 51, as amended, was adopted without objection.

#### Amendment No. 53

Representative Thompson offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 351.102, Local Government Code, is amended to read as follows:

Sec. 351.102. **ADDITIONAL AUTHORITY TO CONTRACT.** The commissioners court of a county may contract with a private vendor to provide for the financing, design, construction, leasing, operation, purchase, maintenance, or management of a jail, detention center, work camp, or related facility. The commissioners court may not award a contract under this section unless the commissioners court requests proposals by public notice and not less than 30 days from such notice receives a proposal that meets or exceeds the requirements specified in the request for proposals. Before the commissioners court of a county enters into a contract under this section, the commissioners court of the county must:

(1) ensure that all services provided under the contract are required to meet or exceed standards set by the Commission on Jail Standards; or

(2) receive the written approval of the sheriff of the county, which written approval shall not be unreasonably withheld.

Amendment No. 53 was adopted without objection.

#### **Amendment No. 54**

Representative Allen offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 497.035(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally sells or offers to sell on the open market in this state an article or product the person knows was manufactured in whole or in part by an inmate of the institutional division or an inmate in a correctional facility in any other state, other than an inmate:

(1) who was on community supervision, [~~probation or~~] parole, or mandatory supervision;

(2) [or] employed by an enterprise who has employed the inmate to advantage themselves of the Franchise Tax Credit offered under Subchapter L, Chapter 171, Tax Code, at the time of manufacture; or

(3) participating in a federally certified prison industry enhancement program.

SECTION \_\_\_\_\_. Section 497.051, Government Code, is amended to read as follows:

Sec. 497.051. **WORK PROGRAM PLAN.** (a) The department shall establish policies for the administration of a conditional work program. The policies must include a work program contract that includes an agreement by the resident to contribute from the wages received by the resident for the resident's participation in private industry employment a percentage of the wages, in accordance with rules adopted by the board to comply with the federal prison enhancement certification program established under 18 U.S.C. Section 1761, and a percentage of the wages for:

(1) costs of supervision;

(2) restitution to the victim or victims of the resident; and

(3) savings to be retained for the resident in a designated account for the resident's benefit and receipt on release.

(b) This subchapter does not restore in whole or in part the civil rights of a work program resident.

(c) A work program resident employed under this subchapter is not subject to workers' compensation laws, and the resident and the resident's beneficiaries may not receive compensation under those laws, except that a private industry may provide workers' compensation benefits to a resident and a resident's beneficiaries as necessary to certify a work program operated by the industry as a work pilot project described in 18 U.S.C. Section 1761. [DEFINITIONS: In this subchapter:

[(1) "Resident" means a person transferred to a secure community residential facility under this subchapter.

[(2) "Secure community residential facility" means a monitored structured environment where a resident's interior and exterior movements and activities can be supervised by specific destination and time.

[(3) "Work facility" means a secure community residential facility to which residents may be transferred under this subchapter.]

SECTION \_\_\_\_\_. Sections 497.052, 497.053, 497.054, 497.055, 497.056, 497.057, 497.058, and 497.059, Government Code, are repealed.

Amendment No. 54 was adopted without objection.

#### **Amendment No. 55**

Representatives Allen and Greenberg offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding appropriately numbered SECTIONS to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 56.02, Code of Criminal Procedure, is amended to read as follows:

Art. 56.02. CRIME VICTIMS' RIGHTS. (a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed by the attorney representing the state or the attorney's designated representative of:

(A) relevant court proceedings, including appellate proceedings, and to be informed if those [court] proceedings have been canceled or rescheduled prior to the event; and

(B) any decision in a court proceeding, immediately after the decision is filed and entered;

(4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal

investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;

(5) the right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;

(6) the right to receive information regarding compensation to victims of crime as provided by Subchapter B of this chapter [the Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes)], including information related to the costs that may be compensated under that subchapter [Act] and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter [Act], the payment for a medical examination under Article 56.06 of this code for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this Act, and to be notified, if requested, of the defendant's release;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause; ~~and~~

(11) the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection and testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, if the offense is an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(12) the right to request victim-offender mediation coordinated by the Texas Department of Criminal Justice;

(13) the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case; and

(14) the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system, to complete the victim impact statement, and to have the victim impact statement considered;

(A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and

(B) by the Board of Pardons and Paroles before an inmate is released on parole.

~~(b) [A victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case:~~

~~[(c)]~~ The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by Subsection (a) of this article and, on request, an explanation of those rights.

~~(c) [(d)]~~ A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article. The failure or inability of any person to provide a right or service enumerated in this article may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

SECTION \_\_\_\_\_. Article 56.08, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) The brief general statement describing the plea bargaining stage in a criminal trial required by Subsection (a)(1) shall include a statement that:

(1) the victim impact statement provided by the victim, guardian of a victim, or close relative of a deceased victim will be considered by the attorney representing the state in entering into the plea bargain agreement; and

(2) the judge before accepting the plea bargain is required under Section 26.13(e) to ask:

(A) whether a victim impact statement has been returned to the attorney; and

(B) if a statement has been returned, for a copy of the statement.

SECTION \_\_\_\_\_. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.12 to read as follows:

Art. 56.12. NOTIFICATION OF ESCAPE OR TRANSFER UNDER WRIT OR WARRANT. (a) The Texas Department of Criminal Justice shall immediately notify the victim of an offense, the victim's guardian, or the victim's close relative if the victim is deceased, if the victim, victim's guardian, or victim's close relative has notified the department as provided by Subsection (b), whenever the offender:

(1) escapes from a facility operated by the department or under contract with the department;

(2) is transferred from the custody of the department for more than one day to the custody of a peace officer under a writ of attachment or a bench warrant; or

(3) dies.

(b) It is the responsibility of the victim, guardian, or close relative desiring notification of an offender's escape or transfer from custody under a writ of

attachment or bench warrant or notification of an offender's death to notify the Texas Department of Criminal Justice of the desire for notification and any change of address.

(c) In providing notice under Subsection (a)(2), the Texas Department of Criminal Justice shall include the name, office address, and office telephone number of the peace officer receiving the inmate into custody.

SECTION \_\_\_\_\_. Article 42.131, Code of Criminal Procedure, is amended by adding Section 14 to read as follows:

Sec. 14. VICTIM NOTIFICATION. (a) A department, using the name and address provided by the attorney representing the state under Article 56.08(e), shall make a reasonable effort to notify a victim of the defendant's crime or, if the victim has a guardian or is deceased, to notify the guardian of the victim or close relative of the deceased victim of:

(1) the fact that the defendant has been placed on community supervision;

(2) the conditions of community supervision imposed on the defendant by the court; and

(3) the date, time, and location of any hearing or proceeding at which the conditions of the defendant's community supervision may be modified or the defendant's placement on community supervision may be revoked or terminated.

(b) It is the responsibility of the victim, guardian, or close relative desiring notification under this section to notify the department of the desire for notification and any change of address.

(c) In this section, "close relative of a deceased victim," "guardian of a victim," and "victim" have the meanings assigned by Article 56.01.

SECTION \_\_\_\_\_. Article 56.08(a), Code of Criminal Procedure, is amended to read as follows:

(a) Not later than the 10th day after the date that an indictment or information is returned against a defendant for an offense, the attorney representing the state shall give to each victim of the offense a written notice containing:

(1) a brief general statement of each procedural stage in the processing of a criminal case, including bail, plea bargaining, parole restitution, and appeal;

(2) notification of the rights and procedures under this chapter;

(3) suggested steps the victim may take if the victim is subjected to threats or intimidation;

(4) notification of the right to receive information regarding compensation to victims of crime as provided by Subchapter B of this chapter ~~[the Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes)]~~, including information about:

(A) the costs that may be compensated under Subchapter B of this chapter ~~[that Act]~~, eligibility for compensation, and procedures for application for compensation under Subchapter B ~~[that Act]~~;

(B) the payment for a medical examination for a victim of a sexual assault under Article 56.06 of this code; and

(C) referral to available social service agencies that may offer additional assistance;

(5) the name, address, and phone number of the local victim assistance coordinator;

(6) the case number and assigned court for the case; ~~and~~

(7) the right to file a victim impact statement with the office of the attorney representing the state and the pardons and paroles division of the Texas Department of Criminal Justice; and

(8) notification of the right of a victim, guardian of a victim, or close relative of a deceased victim, as defined by Section 8(f), Article 42.18 of this code, to appear in person before a member of the Board of Pardons and Paroles as provided by Section 8(f)(2), Article 42.18.

SECTION \_\_\_\_\_. Article 56.08, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) For the purpose of victim notification, an attorney representing the state who receives information concerning a victim's current address and phone number shall immediately provide that information to the community supervision and corrections department supervising the defendant, if the defendant is placed on community supervision.

SECTION \_\_\_\_\_. Section 8(f)(2), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(2) Before a parole panel considers for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the pardons and paroles division, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the pardons and paroles division that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. The [If a hearing is held, the] parole panel shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. The parole panel also shall allow one person to appear in person before the board members to present a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim. The person may be the victim of the prisoner's crime, or if the victim has a legal guardian or is deceased, the legal guardian of the victim or close relative of the deceased victim. If more than one person is otherwise entitled under this subdivision to appear in person before the board, only the person chosen by all persons entitled to appear as their sole representative may appear before the board. This subsection may not be construed to limit the number of persons who may provide written statements for or against the release of the prisoner on parole. The parole panel shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the pardons and paroles division to comply with notice requirements of this subsection is not a ground for revocation of parole.

SECTION \_\_\_\_\_. Subsection (o), Section 8, Article 42.18, Code of Criminal Procedure, as added by Section 5, Chapter 10, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(o)(1) In addition to other conditions imposed by a parole panel under this article, the parole panel shall ~~[may]~~ require as a condition of parole or release to mandatory supervision that an inmate serving a sentence for an offense under Section 42.07(a)(7), Penal Code, ~~[may]~~ not:

(A) communicate directly or indirectly with the victim; or

(B) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(2) In establishing the conditions of parole or mandatory supervision for an inmate serving a term of imprisonment for conviction of an offense under Section 42.07(a)(7), Penal Code ~~[If a parole panel requires the prohibition contained in Subdivision (1)(B) of this subsection as a condition of parole or release to mandatory supervision]~~, the parole panel shall specifically describe the prohibited locations and the minimum distances, if any, that the inmate must maintain from the locations.

SECTION \_\_\_\_\_. Article 42.18, Code of Criminal Procedure, is amended by adding Section 8C to read as follows:

Sec. 8C. NO CONTACT WITH VICTIM. (a) If a parole panel releases a defendant on parole or to mandatory supervision, the panel shall require as a condition of parole or mandatory supervision that the defendant not communicate directly or indirectly with a victim of the offense or go near a residence, school, place of employment, business, or other location, as specifically described in the copy of conditions, frequented by a victim. At any time after the defendant is released on parole or to mandatory supervision, a victim of the offense may petition the panel for a modification of the conditions of the defendant's parole or mandatory supervision allowing the defendant contact with the victim subject to reasonable restrictions.

(b) To the extent that a condition imposed under this section conflicts with an existing court order granting possession of or access to a child, the condition imposed under this section prevails for a period specified by the panel not to exceed 90 days.

(c) In this section, "victim" has the meaning assigned by Article 56.01.

(d) Notwithstanding Subsection (a), a defendant may participate in victim-offender mediation authorized by Section 29 on the request of the victim or a guardian of the victim or a close relative of a deceased victim.

SECTION \_\_\_\_\_. Section 18, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 18. CONFIDENTIAL INFORMATION. (a) All information obtained and maintained in connection with inmates confined in [of] the institutional division, a state jail felony facility, or a county jail who are subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division, or persons directly identified in any proposed plan of release for a prisoner is ~~[including victim impact statements, lists of inmates eligible for parole, and inmates' arrest records, shall be]~~ confidential and privileged information ~~[and shall not be]~~ subject to ~~[public]~~ inspection only on request by ~~[; provided, however, that all such information shall be available to]~~ the governor, the members of the board, and the Criminal Justice Policy Council

for the purpose of performing ~~[to perform]~~ its duties under Section 413.021, Government Code~~[-upon request]~~. Information described under this subsection includes victim protest letters or other victim correspondence, victim impact statements, lists of inmates eligible for parole, and inmates' arrest records.

(b) Statistical ~~[It is further provided that statistical]~~ and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, is ~~[shall be]~~ subject to public inspection at any reasonable time.

(c) A person commits an offense if the person knowingly releases to anyone other than the governor, the members of the board, or the Criminal Justice Policy Council information that:

(1) is described under Subsection (a); and

(2) contains material regarding the victim's identity or location.

(d) An offense under this section is a Class B misdemeanor.

SECTION \_\_\_\_\_. Article 56.03(e), Code of Criminal Procedure, is amended to read as follows:

(e) After a determination of guilt but before ~~[Prior to]~~ the imposition of a sentence by the court in a criminal case, the court, if it has received a victim impact statement, shall consider the information provided in the statement. Before sentencing the defendant, the court shall permit the defendant or his counsel a reasonable time to read the statement, excluding the name, address, and telephone number of the victim, guardian of the victim, or close relative of the deceased victim, comment on the statement, and, with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the statement. If the court sentences the defendant to a term of community supervision ~~[probation]~~, the court shall forward any victim's impact statement received in the case to the community supervision and corrections ~~[probation]~~ department supervising the defendant, along with the papers in the case.

SECTION \_\_\_\_\_. Chapter 36, Code of Criminal Procedure, is amended by adding Article 36.03 to read as follows:

Art. 36.03. INVOCATION OF RULE FOR NONTESTIFYING PERSONS.

(a) A court at the request of a party may order the exclusion of a nontestifying victim, nontestifying close relative of a deceased victim, or nontestifying guardian of a victim only if:

(1) not later than the 10th day before the trial commences the requesting party provides the opposing party with notice of intention to request exclusion of the person; and

(2) the court allows the opposing party to contest the exclusion in open court.

(b) The provisions of Subsection (a) do not limit the authority of the court on its own motion to exclude a person, regardless of whether notice was provided to parties or parties were provided with an opportunity to contest the exclusion.

(c) In this article, "close relative of a deceased victim," "guardian of a victim," and "victim" have the meanings assigned by Article 56.01.

SECTION \_\_\_\_\_. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.13 to read as follows:

Art. 56.13. VICTIM-OFFENDER MEDIATION. The victim services office of the Texas Department of Criminal Justice shall:

(1) train persons to act as mediators between victims, guardians of victims, and close relatives of deceased victims and offenders whose criminal conduct caused bodily injury or death to victims; and

(2) provide mediation services through referral of a trained person, if requested by a victim, guardian of a victim, or close relative of a deceased victim.

SECTION \_\_\_\_\_. Article 42.12, Code of Criminal Procedure, is amended by adding Section 30 to read as follows:

Sec. 30. VICTIM-OFFENDER MEDIATION. If a judge who has placed a defendant on community supervision receives notice from the victim services office of the Texas Department of Criminal Justice that a victim of the defendant, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with the defendant, the court shall cooperate and assist the defendant if the defendant chooses to participate in the mediation program provided by the section. The judge may not require the defendant to participate and may not reward the defendant for participation by modifying conditions of community supervision, offering early termination of community supervision, or granting any other benefit to the defendant.

SECTION \_\_\_\_\_. Article 42.18, Code of Criminal Procedure, is amended by adding Section 29 to read as follows:

Sec. 29. VICTIM-OFFENDER MEDIATION. If the pardons and paroles division receives notice from the victim services office of the Texas Department of Criminal Justice that a victim of the defendant, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with a person released to parole or mandatory supervision, the division shall cooperate and assist the person if the person chooses to participate in the mediation program provided by the office. The pardons and paroles division may not require the defendant to participate and may not reward the person for participation by modifying conditions of release or the person's level of supervision or by granting any other benefit to the person.

SECTION \_\_\_\_\_. Subchapter A, Chapter 501, Government Code, is amended by adding Section 501.018 to read as follows:

Sec. 501.018. VICTIM-OFFENDER MEDIATION. If a division of the department receives notice from the victim services office of the department that a victim of an inmate confined in a facility operated by the department or under contract with the department, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with the inmate, the division shall cooperate and assist the inmate if the inmate chooses to participate in the program provided by the office. The institutional division may not require the inmate to participate and may not reward the inmate for participation by improving the inmate's classification status or privileges or by granting any other benefits to the inmate.

SECTION \_\_\_\_\_. Section 415.031(a), Government Code, is amended to read as follows:

(a) The commission shall establish and maintain training programs for officers and county jailers. The commission shall consult with the Texas Crime

Victim Clearinghouse or any other appropriate entity in developing training programs that relate to matters involving victims of crime. The training shall be conducted by the commission staff or through agencies and institutions that the commission considers appropriate. The commission may authorize reimbursement for a political subdivision or state agency for expenses in attending the training programs as authorized by the legislature.

SECTION \_\_\_\_\_. Section 415.032(b), Government Code, is amended to read as follows:

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in:

(1) crime victims' rights under Chapter 56, Code of Criminal Procedure, and the duty of law enforcement agencies to ensure that a victim is afforded those rights; and

(2) the investigation of cases that involve the following:

(A) [(+)] child abuse;

(B) [(2)] child neglect;

(C) [(3)] family violence; and

(D) [(4)] sexual assault.

SECTION \_\_\_\_\_. Section 415.034, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The commission shall require a state, county, special district, or municipal agency that appoints or employs a peace officer to require each peace officer to complete one in-service training course on crime victims' rights as part of the continuing education program described by Subsection (b), unless the peace officer received training in crime victims' rights under Section 415.032(b)(1). The agency may require each peace officer to receive additional training in crime victims' rights at regular intervals that the agency determines are of sufficient frequency to maintain the peace officer's familiarity with the subject matter.

SECTION \_\_\_\_\_. Chapter 493, Government Code, is amended by adding Section 493.015 to read as follows:

Sec. 493.015. INSTRUCTION REGARDING CRIME VICTIMS' ISSUES.

(a) The department shall provide an annual four-hour training program in crime victims' issues through the victim services office of the department to community supervision and corrections department officers and parole officers and to members of the Board of Pardons and Paroles.

(b) The board shall adopt rules to provide the training required by Subsection (a). In adopting the rules, the board shall consult with the Texas Crime Victim Clearinghouse or any other appropriate entity and may request recommendations for instruction content. The instruction must include information about:

(1) crime victims' rights under Chapter 56, Code of Criminal Procedure; and

(2) the duty of community supervision and corrections department officers and parole officers and members of the Board of Pardons and Paroles to ensure that a victim is afforded those rights.

SECTION \_\_\_\_\_. (a) The Commission on Law Enforcement Officer Standards and Education shall establish the new courses and programs required

by Sections 415.031, 415.032, and 415.034, Government Code, as amended by this Act, not later than January 1, 1996.

(b) For persons who are officers on September 1, 1995, the first set of courses required under Section 415.034, Government Code, as amended by this Act, must be completed before September 1, 1997.

SECTION \_\_\_\_\_. The Texas Board of Criminal Justice shall establish the programs required by Section 493.015, Government Code, as added by this Act, not later than January 1, 1996. For persons who are community supervision and corrections department officers or parole officers or who are members of the Board of Pardons and Paroles on September 1, 1995, participation in a program required by Section 493.015, Government Code, as added by this Act, must be completed by September 1, 1997.

SECTION \_\_\_\_\_. Article 42.18, Code of Criminal Procedure, is amended by adding Section 8B to read as follows:

Sec. 8B. PAROLEE RESTITUTION FUND. (a) The parolee restitution fund is a trust fund in the state treasury and consists of restitution payments made by persons released on parole or mandatory supervision. Money in the fund may be used only to pay restitution as required by a condition of parole or release to mandatory supervision to victims of criminal offenses.

(b) When the Board of Pardons and Paroles orders the payment of restitution in the manner prescribed by Article 42.037(h) from a person released on parole or mandatory supervision, the pardons and paroles division shall:

- (1) collect the payment for disbursement to the victim;
- (2) deposit the payment in the parolee restitution fund; and
- (3) transmit the payment to the victim as soon as practicable.

(c) If a victim who is entitled to restitution cannot be located, immediately after receiving a final payment in satisfaction of an order of restitution for the victim the pardons and paroles division shall attempt to notify the victim of that fact by certified mail, mailed to the last known address of the victim. If a victim then makes a claim for payment, the pardons and paroles division promptly shall remit the payment to the victim. Money that remains unclaimed shall be transferred to the victims of crime auxiliary fund in the state treasury on the fifth anniversary of the date on which the money was deposited to the credit of the parolee restitution fund.

SECTION \_\_\_\_\_. The pardons and paroles division of the Texas Department of Criminal Justice not later than the 30th day after the effective date of this Act shall deposit any restitution money received before the effective date of this Act but not paid to a victim in the parolee restitution fund in the manner provided by Section 8B, Article 42.18, Code of Criminal Procedure, as added by this Act.

Amendment No. 55 was adopted without objection.

Representative Moreno moved to reconsider the vote by which Amendment No. 14 was adopted Monday, May 22.

The motion to reconsider prevailed.

Amendment No. 14 was adopted.

**Amendment No. 56**

Representative Dukes offered the following amendment to **CSSB 15**:

Amend **CSSB 15** by adding a new SECTION \_\_\_\_ to read as follows:

SECTION \_\_\_\_ . Section 24, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 24. Pilot Supervision Contracts. The Texas Board of Criminal Justice may contract with the Commissioners Court of Travis County or the Travis County community supervision and corrections department for the confinement of felons under community supervision. The commissioners court or the community supervision and corrections department may not enter into a contract under this section unless the commissioners court or department first consults with the community justice council serving the county or the department. If the county commissioners or the community supervision and corrections department contracts with the board under this section, the commissioners court or the department may subcontract with a private vendor for the provision of any and all services described in this section. This section expires on September 1, ~~1995~~ 1997.

Renumber the remaining sections as appropriate.

Amendment No. 56 was adopted without objection.

Representative Stiles moved to order the previous question on passage to third reading of **CSSB 15**.

The motion was seconded.

The motion prevailed.

**CSSB 15**, as amended, was passed to third reading. (Dutton recorded voting no)

**SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**SB 130, SB 219, SB 346, SB 397, SB 407, SB 622, SB 627, SB 651, SB 661, SB 753, SB 810, SB 905, SB 921, SB 979, SB 981, SB 1063, SB 1139, SB 1262, SB 1278, SB 1296, SB 1347, SB 1356, SB 1384, SB 1410, SB 1414, SB 1420, SB 1431, SB 1446, SB 1470, SB 1477, SB 1479, SB 1491, SB 1585, SB 1607, SB 1620, SB 1629, SB 1645, SB 1654, SB 1688, SB 1693, SCR 27, SCR 87, SCR 88**

**RESOLUTIONS REFERRED TO COMMITTEES**

The following resolutions were laid before the house and referred to committees:

By Walker,

**HR 1009**, Congratulating G. D. "Rip" Lasater on his retirement.

To Committee on Rules and Resolutions.

By Staples,

**HR 1010**, Congratulating the Honorable Gerard Torres on his birthday.

To Committee on Rules and Resolutions.

By Carter, et al.,

**HR 1012**, Commending the Bedford Mid-Cities office of the Texas Employment Commission.

To Committee on Rules and Resolutions.

By H. Cuellar,

**HR 1014**, Honoring Veronica Olivarez on her selection as the U.S. Border Patrol's Youth of the Year.

To Committee on Rules and Resolutions.

By Van de Putte,

**HR 1015**, Honoring Louis Barrios on his selection as 1995 Small Business Leader of the Year.

To Committee on Rules and Resolutions.

By Van de Putte,

**HR 1016**, Honoring William Arlyn Kloesel on the occasion of his retirement.

To Committee on Rules and Resolutions.

By Conley,

**HR 1017**, Requesting the speaker of the house to provide for an interim house study to address whether the state should license Texas homebuilders.

To Committee on House Administration.

By Hochberg,

**HR 1018**, In memory of Rosemary Kennedy.

To Committee on Rules and Resolutions.

By Naishtat,

**HR 1020**, Honoring Erv Sandlin and designating May 27, 1995, as Erv Sandlin Appreciation Day.

To Committee on Rules and Resolutions.

By Oakley,

**HR 1021**, In memory of Matthew Brent Courtney.

To Committee on Rules and Resolutions.

By Delisi,

**HR 1022**, Honoring Bethel African Methodist Episcopal Church on the occasion of its 102nd anniversary.

To Committee on Rules and Resolutions.

By Greenberg,

**HR 1023**, Congratulating Rabbi Steven Folberg on his 10th year in the rabbinate.

To Committee on Rules and Resolutions.

By Hirschi,

**HR 1024**, Encouraging Texans to improve their nutrition as a chronic disease prevention measure.

To Committee on Public Health.

By Moffat,

**HR 1025**, Congratulating Cathy Barthelmy on being named 1995 Teacher of the Year by the Carroll Independent School District.

To Committee on Rules and Resolutions

**SB 345 ON THIRD READING**  
**(Uher - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 345**, A bill to be entitled An Act relating to tax abatement, reinvestment zones, and the refund of certain taxes by the comptroller to reimburse certain taxes paid on property in a reinvestment zone.

The bill was read third time.

**Amendment No. 1**

Representative Alexander offered the following amendment to the bill:

Amend **SB 345** on third reading by amending Second Reading Amend #8 by Smithee by adding in SECTION 1 of the amendment a new Sec. 2.07 to read as follows and renumbering subsequent sections accordingly:

"Sec. 2.07. CONSENT OF MUNICIPALITY. No land within the corporate limits of a municipality or within the extraterritorial jurisdiction of a municipality shall be included in a district unless the municipality grants its written consent, by resolution or ordinance, to the inclusion of the land within the district. Petitioners for creation shall submit to the governing body of the municipality a petition for consent to creation of the district which shall have attached a copy of the petition for creation."

Amendment No. 1 was adopted without objection.

**SB 345**, as amended, was passed.

**RULES SUSPENDED**

Representative Stiles moved to suspend all necessary rules to take up and consider the remainder of the bills on third reading on today's major state calendar at 10 a.m. tomorrow.

The motion prevailed without objection.

**SB 135 ON SECOND READING**  
**(Thompson, Puente, and Greenberg - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 135**, A bill to be entitled An Act relating to the punishment for the offense of violation of a protective order by a habitual offender under that statute.

The bill was read second time and was passed to third reading.

**SB 349 ON SECOND READING**  
**(Nixon and Thompson - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 349**, A bill to be entitled An Act relating to the payment of a fee to a court clerk in certain criminal cases and a fee for certification by the county clerk.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Nixon offered the following committee amendment to the bill:

Amend **SB 349**, page 3, line 18, by adding after the word "law" the following: , municipal court

Amend **SB 349**, page 4, line 22, by adding after the word "court" and before the period the following: or the governing body of a municipality

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Nixon offered the following amendment to the bill:

Amend **SB 349** as follows:

(1) In SECTION 2 of the bill, in the heading of amended Article 102.017, Code of Criminal Procedure (House Committee Report, page 3, line 14), between "FUND" and the period, insert "; MUNICIPAL COURT BUILDING SECURITY FUND".

(2) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, insert the following sentence at the end of Subsection (b) (House Committee Report, page 3, line 19): "The governing body of a municipality by ordinance may create a municipal court building security fund and may require a defendant convicted in a trial for a misdemeanor offense in a municipal court to pay a \$3 security fee as a cost of court.".

(3) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the first sentence of redesignated Subsection (d), strike "county treasurer" wherever it appears (House Committee Report, page 4, line 2 and lines 3-4) and substitute "county or municipal treasurer, as appropriate".

(4) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the first sentence of redesignated Subsection (d), after "fund" and before the period (House Committee Report, page 4, line 5), insert "or a fund to be known as the municipal court building security fund, as appropriate".

(5) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the second sentence of redesignated Subsection (d), strike "The fund" (House Committee Report, page 4, line 5) and substitute "A [The] fund designated by this subsection".

(6) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, in the second sentence of redesignated Subsection (d), strike "district or county court" (House Committee Report, page 4, line 7) and substitute "district, ~~or~~ county, or municipal court, as appropriate".

(7) In SECTION 2 of the bill, in amended Article 102.017, Code of Criminal Procedure, insert the following sentence at the end of redesignated Subsection (e) (House Committee Report, page 4, line 22): "The municipal court building fund shall be administered by or under the direction of the governing body of the municipality.".

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Place offered the following amendment to the bill:

Amend **SB 349** by adding a new appropriately numbered section to read as follows and renumbering the existing sections as appropriate:

SECTION \_\_\_\_\_. Section 118.0145, Local Government Code, is amended to read as follows:

Sec. 118.0145. NONCERTIFIED PAPERS. (a) The fee for "Noncertified Papers" under Section 118.011 is for issuing a noncertified copy of each page or part of a page of a document. The fee must be paid at the time the order is placed.

(b) A county clerk may waive or reduce the fee provided in Section 118.011 for issuing a noncertified copy of a page or a portion of a page of a document if the document:

(1) involves a matter relating to family law, including a divorce decree; or

(2) is the record of a judgment in a misdemeanor case.

Amendment No. 3 was adopted without objection.

**SB 349**, as amended, was passed to third reading.

**SB 374 ON SECOND READING**

**(Junell - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 374**, A bill to be entitled An Act relating to the review and continuation of certain state agencies subject to the Texas Sunset Act.

The bill was read second time and was passed to third reading.

**SB 494 ON SECOND READING**

**(Place - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 494**, A bill to be entitled An Act relating to the imposition of a lien on certain persons convicted of criminal offenses to secure payment of restitution, fines, or costs.

The bill was read second time.

**Amendment No. 1**

Representative Cook offered the following amendment to the bill:

Amend **SB 494** in SECTION 1 of the bill, in proposed Section 12, Article 42.21, Code of Criminal Procedure, (house committee report, page 7, between lines 18 and 19), by inserting a new Subsection (d) to read as follows:

(d) A partial release of a lien as to specific property may be executed by the attorney representing the state or a magistrate who signs an affidavit described by Section 6 on payment of a sum determined to represent the defendant's interest in any property to which the lien may attach.

Amendment No. 1 was adopted without objection.

Representative Place moved to postpone consideration of **SB 494** until 2 p.m. today.

The motion prevailed without objection.

**SB 569 ON SECOND READING**  
**(Hightower - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 569**, A bill to be entitled An Act relating to the provision of hospice services to inmates and defendants confined in facilities operated by the Texas Department of Criminal Justice.

The bill was read second time.

**Amendment No. 1**

Representative Hightower offered the following amendment to the bill:

Amend **SB 569** by inserting the following sentence after the period on line 11, page 1.

Hospice services established by the department shall meet licensure standards established under Chapter 142, Health and Safety Code, except for those standards which are determined to be in conflict with security considerations in the institutional setting.

Amendment No. 1 was adopted without objection.

**SB 569**, as amended, was passed to third reading.

**SB 1049 ON SECOND READING**  
**(Place - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1049**, A bill to be entitled An Act relating to the Crime Victims' Compensation Act; providing civil and administrative penalties.

The bill was read second time and was passed to third reading.

**SB 1074 ON SECOND READING**  
**(Talton and Delisi - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1074**, A bill to be entitled An Act relating to the operations of a grand jury; providing penalties.

The bill was read second time.

**Amendment No. 1**

Representatives Thompson and De La Garza offered the following amendment to the bill:

Amend **SB 1074** as follows:

1) On page 1, line 14, strike "and"

2) On page 1, line 16, strike "." and substitute "; and"

3) On page 1, between lines 16 and 17, insert the following:

"(7) an attorney representing a witness who is a target of a grand jury investigation, for the sole purpose of consultation."

4) Add a new section, appropriately numbered to read as follows:

SECTION \_\_\_\_\_. Article 20.03, Code of Criminal Procedure, is amended to read as follows:

Art. 20.03. ATTORNEY [~~Representing State~~] ENTITLED TO APPEAR. (a) "The attorney representing the State" means the Attorney General, district attorney, criminal district attorney, or county attorney.

(b) The attorney representing the State[-] is entitled to go before the grand jury and inform them of offenses liable to indictment at any time except when they are discussing the propriety of finding an indictment or voting upon the same.

(c) An attorney representing a witness who is a target of a grand jury investigation may be present in the grand jury room while the grand jury is questioning the witness. The grand jury shall permit the attorney or the witness to interrupt the questioning at any time so that the attorney may advise the witness outside the hearing of the grand jury.

Representative Gallego moved to table Amendment No. 1.

(Tillery now present)

A record vote was requested.

The motion to table prevailed by (Record 506): 89 Yeas, 55 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Black; Brimer; Carona; Carter; Chisum; Clemons; Combs; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Dear; Delisi; Denny; Driver; Duncan; Finnell; Gallego; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Junell; Kamel; King; Krusee; Kuempel; Lewis, R.; Madden; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pitts; Rabuck; Ramsay; Raymond; Reyna; Sadler; Seidlits; Serna; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Bosse; Coleman; Conley; Cook; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hernandez; Hochberg; Hudson; Jones, J.; Kubiak; Lewis, G.; Longoria; Luna; Maxey; Moreno; Munoz; Naishtat; Pickett; Place; Price; Puente; Rangel; Rhodes; Rodriguez; Romo; Rusling; Saunders; Solis; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C); Marchant.

Absent — Brady; Jones, D.; McDonald; Wilson.

**Amendment No. 2**

Representative Dutton offered the following amendment to the bill:

Amend **SB 1074** in SECTION 1 of the bill, by striking proposed Article 20.012 and substituting a new Section 20.012 to read as follows:

Art. 20.012. RECORDING OF PROCEEDINGS. (a) All proceedings before a grand jury other than the deliberations of the grand jury shall be recorded by a bailiff using an electronic device capable of recording sound.

(b) The validity of a grand jury proceeding is not affected by an unintentional failure to record all or part of questions propounded or testimony made under Subsection (a).

(c) The clerk of the court in which the case is pending shall maintain possession of all records made under this article and any typewritten transcription of those records, except as provided by Article 20.02.

Representative Talton moved to table Amendment No. 2.

The motion to table prevailed.

**SB 1074**, as amended, was passed to third reading. (Dutton recorded voting no)

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Natural Resources, on recess today, Desk 9.

**RECESS**

Representative Delisi moved that the house recess until 2 p.m.

The motion prevailed without objection.

The house accordingly, at 12:20 p.m., recessed until 2 p.m.

**AFTERNOON SESSION**

The house met at 2 p.m. and was called to order by the speaker.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 23, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HCR 220** by Swinford (Sponsor-Patterson, Jerry), instructing the house enrolling clerk to make technical corrections in **HB 280**.

**HCR 221** by Alvarado (Sponsor-Madla), instructing the house enrolling clerk to make technical corrections in **HB 2062**.

**HCR 222** by Kamel (Sponsor-Ratliff), instructing the house enrolling clerk to make a technical correction in **HB 160**.

**HJR 68** by Haggerty (Sponsor-Rosson), proposing a constitutional amendment to raise the limits of the exemption from ad valorem taxation of property owned by disabled veterans or by the surviving spouses and surviving minor children of disabled veterans (amended).

**HB 369** by Averitt, Ramsay, Goodman, et al. (Sponsor-Patterson, Jerry), relating to the operation and funding of small employer health benefit plans (committee substitute and amended).

**HB 676** by Craddick (Sponsor-Bivins), relating to a tax exemption for hydrocarbon production from certain inactive oil and gas leases returned to production (committee substitute and amended).

**HB 735** by Craddick (Sponsor-Zaffirini), relating to uses of balances in the inaugural fund; making an appropriation (committee substitute).

**HB 943** by Turner, Sylvester (Sponsor-Gallegos), relating to performance audits of certain metropolitan transit authorities (amended).

**HB 1013** by Romo (Sponsor-Barrientos), relating to the issuance of obligations by the Texas Public Finance Authority (committee substitute and amended).

**HB 1419** by Yarbrough (Sponsor-Cain), relating to certificates and permits issued by the Alcoholic Beverage Commission and to regulation of private club permittees by certain municipalities (committee substitute and amended).

**HB 1487** by Counts and Duncan (Sponsor-Montford), relating to the investigation, prosecution, and punishment of the offense of insurance fraud (committee substitute and amended).

**HB 1541** by Torres (Sponsor-Gallegos), relating to certain work that may be performed without a plumbing license and the prohibition of the sale or transfer of certain plumbing fixtures (amended).

**HB 1586** by Marchant (Sponsor-Cain), relating to certain agreements under a retail installment contract for the purchase of a motor vehicle (amended).

**HB 1810** by Turner, Sylvester (Sponsor-Whitmire), relating to membership on the boards of trustees of retirement systems for police officers in certain municipalities (amended).

**HB 2216** by Kuempel (Sponsor-Armbrister), relating to the issuance of hunting licenses and stamps and the conducting of public hunt drawings by the Parks and Wildlife Department; providing penalties (committee substitute).

**HB 2540** by Jones, Jesse (Sponsor-Cain), relating to allowing the Texas State Library and Archives Commission to assist public libraries with public information technology grants (amended).

**HB 2731** by Craddick (Sponsor-Bivins), relating to oil and gas production research and information, including the Texas Experimental Research and Recovery Activity; providing administrative, civil, and criminal penalties.

**HB 2747** by Holzheuser (Sponsor-Armbrister), relating to the issuance of tuition revenue bonds for the University of Houston-Victoria.

**HB 994** by Delisi (Sponsor-Wentworth), relating to the employment of children in certain activities (amended).

**HB 1001** by Cuellar, Henry (Sponsor-Zaffirini), relating to the regulation of subdivisions in economically distressed areas and the delivery of water and sewer services to economically distressed subdivisions; providing civil and criminal penalties (committee substitute).

**HB 1697** by Maxey (Sponsor-Barrientos), relating to providing information to students applying for guaranteed student loans relating to the graduation, placement, and student loan default rates for proprietary schools (committee substitute and amended).

**HB 3031** by Goolsby (Sponsor-Montford), relating to authorized locations for the sale of lottery tickets (amended).

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 600** by Viva Voce Vote; **SB 602** by Viva Voce Vote; **SB 10** by 31 Yeas, 0 Nays; and **SB 601** by 31 Yeas, 0 Nays.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for the appointment of a Conference Committee to adjust the differences between the two Houses on **HB 546**.

The following have been appointed on the part of the Senate: Senator Harris, chair, Senator Moncrief, Senator Armbrister, Senator Lucio, and Senator Madla.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 1445** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator Brown, chair, Senator Lucio, Senator Truan, Senator Rosson, and Senator Montford.

**SB 992** Senate Conferees: Barrientos, chair, Gallegos, Ellis, Shapiro, and Wentworth.

**SB 550** Senate Conferees: Nixon, chair, Montford, Cain, Galloway, and Patterson.

**SB 261** Senate Conferees: Leedom, chair, Cain, Shapiro, Galloway, and Madla.

Respectfully,  
Betty King  
Secretary of the Senate

**SB 494 ON SECOND READING**  
**(Place - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

**SB 494**, A bill to be entitled An Act relating to the imposition of a lien on certain persons convicted of criminal offenses to secure payment of restitution, fines, or costs.

**SB 494** was read second time earlier today, amended, and was postponed until this time.

**Amendment No. 2**

On behalf of Representative Gallego, Representative Place offered the following amendment to the bill:

Amend **SB 494** (house committee report) as follows:

(1) In SECTION 1 of the bill, in proposed Section 3, Article 42.21, Code of Criminal Procedure, between "restitution lien" and "is perfected" (page 2, line 8), insert "attaches and".

(2) In SECTION 1 of the bill, in proposed Section 9(1), Article 42.21, Code of Criminal Procedure (page 6, line 3), strike "possesses" and substitute "acquires".

(3) In SECTION 1 of the bill, in proposed Section 9(1), Article 42.21, Code of Criminal Procedure, between "lien" and the semicolon (page 6, line 4), insert "or a valid lien or security interest secured by a vendor's lien".

(4) In SECTION 1 of the bill, in proposed Section 9, Article 42.21, Code of Criminal Procedure (page 6, lines 8-11), strike Subdivision (3) and substitute the following:

(3) a bona fide purchaser for value who acquires and files for record an interest in the property, if real property, before the perfection of the restitution lien.

(5) In SECTION 1 of the bill, in proposed Section 12(c), Article 42.21, Code of Criminal Procedure (page 7, lines 14-18), strike the last sentence and substitute the following:

If the defendant satisfies the judgment, the clerk shall immediately execute and file for record a release of the restitution lien with all officers or entities with which the affidavit perfecting the lien was filed, as indicated by the notice received by the clerk under Section 7(h), unless a release was executed and filed by the person who filed the affidavit to perfect the lien.

Amendment No. 2 was adopted without objection.

**SB 494**, as amended, was passed to third reading.

### **HR 836**

**HR 836**, commending the Texas Society of Professional Engineers' MATHCOUNTS program, having been previously adopted, was read.

### **SB 1260 ON SECOND READING** **(Patterson - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1260**.

**CSSB 1260**, A bill to be entitled An Act relating to the use of the general obligation bonding authority of the farm and ranch finance program fund for the Texas agricultural fund within the Texas Agricultural Finance Authority.

**CSSB 1260** was read second time and was passed to third reading.

### **SB 1391 ON SECOND READING** **(Brimer - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1391**, A bill to be entitled An Act relating to records and seals of notaries public and to qualification as a notary public.

The bill was read second time.

(Dutton in the chair)

**SB 1391** was passed to third reading. (Davila recorded voting no)

**SB 1428 ON SECOND READING**

**(Seidlits - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1428**.

**CSSB 1428**, A bill to be entitled An Act relating to abolishing certain state governmental entities.

**CSSB 1428** was read second time.

**Amendment No. 1**

On behalf of Representative Combs, Representative Seidlits offered the following amendment to **CSSB 1428**:

Amend **CSSB 1428** as follows:

(1) On page 8, beginning on line 13, delete Article 12 of the bill and renumber subsequent Articles accordingly.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Gallego offered the following amendment to **CSSB 1428**:

Amend **CSSB 1428** immediately after ARTICLE 27 of the bill (house committee report, page 28, between lines 1 and 2) by inserting the following article of the bill and renumbering subsequent articles and sections of the bill accordingly:

**ARTICLE 28. ABOLITION OF TEXAS COMMISSION ON  
ALCOHOL AND DRUG ABUSE**

**SECTION 28.01.** The Texas Commission on Alcohol and Drug Abuse as it exists on the effective date of this Act is abolished. The terms of office of the members of the commission serving on that date expire on the date of the first meeting of the commission created by this article.

**SECTION 28.02.** (a) The Texas Commission on Alcohol and Drug Abuse, composed as provided by Section 461.003, Health and Safety Code, as amended by this article, is created.

(b) As soon as possible after the effective date of this Act, the governor shall appoint six members to the commission. Members appointed to the commission under this section serve for terms expiring February 1, 1997.

**SECTION 28.03.** (a) The Texas Commission on Alcohol and Drug Abuse created by this article has all the powers and duties provided by law and all the property, employees, unspent appropriations, documents, rights, and obligations of the abolished commission.

(b) The validity of an action taken by the commission before it is abolished under this article is not affected by the abolishment.

**SECTION 28.04.** The change in law made by this article does not affect the powers and duties of the State Conservatorship Board under Chapter 2104,

Government Code, relating to the operation of the Texas Commission on Alcohol and Drug Abuse, and the actions of the legislative audit committee and of the governor under Chapter 2104, Government Code, relating to placing the abolished agency under the conservatorship of the State Conservatorship Board are considered to be actions placing the commission created by this article under the conservatorship of the State Conservatorship Board.

SECTION 28.05. It is the intent of the legislature that the governing structure of the Texas Commission on Alcohol and Drug Abuse created by this article be a transitional governing structure. Not later than November 1, 1996, the members of the Texas Commission on Alcohol and Drug Abuse appointed under this article and the State Conservatorship Board shall file joint recommendations with the presiding officer of each house of the legislature for consideration by the 75th Legislature relating to governance of the commission.

SECTION 28.06. Section 461.003, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The commission is composed of six ~~nine~~ members appointed by the governor with the advice and consent of the senate.

(d) In appointing members to the commission under this section, the governor shall appoint not fewer than three members with experience in business management, financial management, auditing, contract management, or similar activities that are relevant to the commission's duties.

SECTION 28.07. Section 461.006, Health and Safety Code, is amended to read as follows:

Sec. 461.006. TERMS. Commission members serve for two-year ~~[staggered six-year]~~ terms~~[-with the terms of three members expiring every other year].~~

Amendment No. 2 was adopted without objection.

(Speaker in the chair)

### **Amendment No. 3**

Representative Seidlits offered the following amendment to **CSSB 1428**:

Amend **CSSB 1428** as follows:

(1) In ARTICLE 10 of the bill, strike SECTIONS 10.02-10.04 of the bill (House Committee Report, page 7, line 11, through page 8, line 8) and substitute the following:

SECTION 10.02. Subchapter R, Chapter 22, Parks and Wildlife Code, is repealed.

Amendment No. 3 was adopted without objection.

**CSSB 1428**, as amended, was passed to third reading.

### **SB 1346 ON SECOND READING** **(Seidlits and Marchant - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1346**.

**CSSB 1346**, A bill to be entitled An Act relating to the creation of sports authorities and sports facility enterprise zones and to the financing of sports facilities.

**CSSB 1346** was read second time.

Representative Brimer raised a point of order against further consideration of **CSSB 1346** on the grounds that **CSSB 1346** violates Rule 4, Section 11 and Section 12, of the House Rules.

The speaker sustained the point of order.

### **SB 1334 ON SECOND READING**

**(Naishtat, Ehrhardt, Gray, S. Turner, et al. - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1334**, A bill to be entitled An Act relating to the relationship between landlords and tenants and to the regulation of residential rental locators; providing penalties.

The bill was read second time.

#### **Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Solomons, Representative Naishtat offered the following committee amendment to the bill:

Amend **SB 1334** as follows: by adding a new SECTION 2 on Page 7, line 11, to read as follows and renumbering subsequent sections appropriately:

SECTION 2. Section 92.152, Property Code is amended to read as follows:

(a) This subchapter does not apply to:

(1) a room in a hotel, motel, or inn or to similar transient housing;  
[or]

(2) residential housing owned or operated by a public or private college or university accredited under Section 61.003, Education Code; ~~[-or]~~

(3) residential housing operated by preparatory schools accredited by the Texas Education Agency, a regional accrediting agency, or any accrediting agency recognized by the commission of education; or

(4) to a temporary residential tenancy created by a contract for the sale of real estate in which the buyer occupies the property prior to closing or the seller occupies the property after closing for a contemplated term not to exceed 90 days.

(b) Except as provided by Subsection (a) of this section, a [A] dwelling to which this subchapter applies includes:

(1) a room in a dormitory or rooming house ~~[not excluded by Subsection (a) of this section];~~

(2) a mobile home;

(3) a single family house, duplex, or triplex; and

(4) a living unit in an apartment, condominium, cooperative, or townhome project.

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2 (Committee Amendment No. 2)**

On behalf of Representative Brady, Representative Naishtat offered the following committee amendment to the bill:

Amend **SB 1334** as follows:

In SECTION 4 of the bill, on page 17, line 12, strike Subsection 24(a) and substitute the following:

(a) In this section, "residential rental locator" means a person, other than the owner of the property or a person exempted by Section 3 of this Act, who offers, for consideration, to locate a unit in an apartment complex for lease to a prospective tenant.

Amendment No. 2 was adopted without objection.

**Amendment No. 3 (Committee Amendment No. 3)**

On behalf of Representative Corte, Representative Naishtat offered the following committee amendment to the bill:

Amend **SB 1334** by striking SECTIONS 7 and 8 and adding the following new SECTIONS, to read as follows:

SECTION 7. Section 92.258, Property Code, is amended by amending Subsections (b) and (e) and adding Subsection (g) to read as follows:

(b) The landlord shall determine that the smoke detector is in good working order at the beginning of the tenant's possession by testing the smoke detector with smoke, by operating the testing button on the smoke detector, or by following other [the] recommended test procedures of the manufacturer for the particular model[:]

~~[(1) at the beginning of a tenant's possession if the dwelling unit contains a smoke detector; or]~~

~~[(2) at the time of installation if the landlord installs the smoke detector in the dwelling unit after the tenant has taken possession].~~

(e) The landlord has met the duty to inspect and repair if the smoke detector is in good working order after the landlord tests the smoke detector with smoke, operates the testing button on the smoke detector, or follows other [the] recommended test procedures of the manufacturer for the particular model.

(g) A smoke detector that is in good working order at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests repair of the smoke detector as provided by this subchapter.

SECTION 8. Section 92.259, Property Code, is amended to read as follows:

Sec. 92.259. LANDLORD'S FAILURE TO INSTALL, INSPECT, OR REPAIR. (a) A landlord is liable according to this subchapter if:

(1) the landlord did not install a smoke detector at the time of initial occupancy by the tenant as required by this subchapter or a municipal ordinance permitted by this subchapter; or [after the tenant requested the landlord to install, inspect, or repair a smoke detector in the tenant's dwelling unit as required by this subchapter, the landlord did not install the smoke detector or inspect or repair the smoke detector within a reasonable time after the tenant's notice of malfunction or request for repair, considering the availability of materials, labor, and utilities; and]

(2) the landlord does not install, inspect, or repair the smoke detector on or before the seventh day after the date the tenant gives the landlord written notice that the tenant may exercise his remedies under this subchapter if the landlord does not comply with the request within seven days.

(b) If the tenant gives notice under Subsection (a)(2) and the tenant's lease is in writing, the lease may require the tenant to make the initial request for installation, inspection, or repair in writing.

SECTION 9. Section 92.260, Property Code, is amended to read as follows:

Sec. 92.260. TENANT REMEDIES. A tenant of a landlord who is liable under Section 92.259 may obtain or exercise one or more of the following remedies:

(1) a court order directing the landlord to comply with the tenant's request if the tenant is in possession of the dwelling unit;

(2) a judgment against the landlord for damages suffered by the tenant because of the landlord's violation;

(3) a judgment against the landlord for a civil penalty of one month's rent plus \$100 if the landlord violates Section 92.259(a)(2);

(4) a judgment against the landlord for court costs [~~and attorney's fees~~]; [~~and~~]

(5) a judgment against the landlord for attorney's fees in an action under Subdivision (1) or (3); and

(6) unilateral termination of the lease without a court proceeding if the landlord violates Section 92.259(a)(2).

SECTION 10. Subchapter F, Chapter 92, Property Code, is amended by adding Section 92.2611 to read as follows:

Sec. 92.2611. TENANT'S DISABLING OF A SMOKE DETECTOR. (a) A tenant is liable according to this subchapter if the tenant removes a battery from a smoke detector without immediately replacing it with a working battery or knowingly disconnects or intentionally damages a smoke detector, causing it to malfunction.

(b) Except as provided in Subsection (c), a landlord of a tenant who is liable under Subsection (a) may obtain a judgment against the tenant for damages suffered by the landlord because the tenant removed a battery from a smoke detector without immediately replacing it with a working battery or knowingly disconnected or intentionally damaged the smoke detector, causing it to malfunction.

(c) A tenant is not liable for damages suffered by the landlord if the damage is caused by the landlord's failure to repair the smoke detector within a reasonable time after the tenant requests it to be repaired, considering the availability of material, labor, and utilities.

(d) A landlord of a tenant who is liable under Subsection (a) may obtain or exercise one or more of the remedies in Subsection (e) if:

(1) a lease between the landlord and tenant contains a notice, in underlined or boldfaced print, which states in substance that the tenant must not disconnect or intentionally damage a smoke detector or remove the battery without immediately replacing it with a working battery and that the tenant may be subject to damages, civil penalties and attorney's fees under Section 92.2611 of the Property Code for not complying with the notice; and

(2) the landlord has given notice to the tenant that the landlord intends to exercise the landlord's remedies under this subchapter if the tenant does not reconnect, repair, or replace the smoke detector or replace the removed battery within seven days after being notified by the landlord to do so.

The notice in Subdivision (2) must be in a separate document furnished to the tenant after the landlord has discovered that the tenant has disconnected or damaged the smoke detector, or removed a battery from it.

(e) If a tenant is liable under Subsection (a) and the tenant does not comply with the landlord's notice under Subsection (d), the landlord shall have the following remedies against the tenant:

(1) a court order directing the tenant to comply with the landlord's notice;

(2) a judgment against the tenant for a civil penalty of one month's rent plus \$100;

(3) a judgment against the tenant for court costs; and

(4) a judgment against the tenant for reasonable attorney's fees.

(f) A tenant's guest or invitee who suffers damage because of a landlord's failure to install, inspect, or repair a smoke detector as required by this subchapter, may recover a judgment against the landlord for the damage. A tenant's guest or invitee who suffers damage because the tenant removed a battery without immediately replacing it with a working battery or because the tenant knowingly disconnected or intentionally damaged the smoke detector, causing it to malfunction, may recover a judgment against the tenant for the damage.

SECTION 11. SECTIONS 7 through 10 of this Act relating to smoke detectors take effect September 1, 1995, and apply only to a cause of action that accrues on or after that date. All other SECTIONS take effect January 1, 1996. A cause of action that accrued before the effective date of a SECTION of this Act is governed by the law as it existed at the time the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 3 was adopted without objection.

#### **Amendment No. 4**

Representative Naishtat offered the following amendment to the bill:

Amend **SB 1334** by adding the appropriately numbered two new SECTIONS, to read as follows; and renumbering the subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 92.152, Property Code, is amended to read as follows:

Sec. 92.152. Application of Subchapter. (a) This subchapter does not apply to:

(1) a room in a hotel, motel, or inn or to similar transient housing;

(2) ~~[or to]~~ residential housing owned or operated by a public or private college or university accredited by a recognized accrediting agency as defined under Section 61.003, Education Code;

(3) ~~[-or to]~~ residential housing operated by preparatory schools accredited by the Texas Education Agency, a regional accrediting agency, or any accrediting agency recognizing by the commissioner of education; or

(4) a temporary residential tenancy created by a contract for sale in which the buyer occupies the property before closing or the seller occupies the property after closing for a specific term not to exceed 90 days.

(b) Except as provided by Subsection (a), a [A] dwelling to which this subchapter applies includes:

(1) a room in a dormitory or rooming house [~~not excluded by Subsection (a) of this section~~];

(2) a mobile home;

(3) a single family house, duplex, or triplex; and

(4) a living unit in an apartment, condominium, cooperative, or townhome project.

SECTION \_\_\_\_\_. Section 92.153, Property Code, is amended to read as follows:

Sec. 92.153. Security Devices Required Without Necessity of Tenant Request. (a) Except as provided by Subsections (b), (e), (f), [~~and~~] (g),and (h) and without necessity of request by the tenant, a dwelling must be equipped with:

(1) a window latch on each exterior window of the dwelling;

(2) a doorknob lock or keyed dead bolt on each exterior door;

(3) a sliding door pin lock~~[-, a sliding door handle latch, or a sliding door security bar]~~ on each exterior sliding glass door of the dwelling~~[-, if construction of the dwelling was completed before September 1, 1993, and the calendar date is before January 1, 1995];~~

(4) ~~a sliding door pin lock and~~ a sliding door handle latch or a sliding door security bar on each exterior sliding glass door of the dwelling~~[-, if construction of the dwelling was completed on or after September 1, 1993, or the calendar date is January 1, 1995, or later]; and~~

(5) a keyless bolting device and a door viewer on each exterior door of the dwelling~~[-, if initial construction of the dwelling was completed on or after September 1, 1993; and]~~

~~[(6) a keyless bolting device and a door viewer on each exterior door of the dwelling, if the calendar date is January 1, 1995, or later].~~

(b) If the dwelling has French doors, one door of each pair of French doors must meet the requirements of Subsection (a) and the other door must have:

(1) a keyed dead bolt or keyless bolting device capable of insertion into the doorjamb above the door and a keyless bolting device capable of insertion into the floor or threshold, each with a bolt having a throw of one inch or more; or

(2) a bolt installed inside the door and operated from the edge of the door, capable of insertion into the doorjamb above the door, and another bolt installed inside the door and operated from the edge of the door capable of insertion into the floor or threshold, each bolt having a throw of three-fourths inch or more.

(c) A security device required by Subsection (a) or (b) must be installed at the landlord's expense.

(d) Subsections (a) and (b) apply only when a tenant is in possession of a dwelling.

(e) A keyless bolting device is not required to be installed at the landlord's expense on an exterior door if:

(1) the dwelling is part of a multiunit complex in which the majority of dwelling units are leased to tenants who are over 55 years of age or who have a physical or mental disability;

(2) a [the] tenant or occupant in the dwelling is over 55 years of age or has a physical or mental disability; and

(3) the landlord is expressly required or permitted to periodically check on the well-being or health of the tenant as a part of a written lease or other written agreement.

(f) A keyless bolting device is not required to be installed at the landlord's expense if a tenant or occupant in the dwelling is over 55 years of age or has a physical or mental disability, the tenant requests, in writing, that the landlord deactivate or not install the keyless bolting device, and the tenant certifies in the request that the tenant or occupant is over 55 years of age or has a physical or mental disability. The request must be a separate document and may not be included as part of a lease agreement. A landlord is not exempt as provided by this subsection of the landlord knows or has reason to know that the requirements of this subsection are not fulfilled.

(g) [(f)] A keyed dead bolt or a doorknob lock is not required to be installed at the landlord's expense on an exterior door if at the time the tenant agrees to lease the dwelling:

(1) at least on exterior door usable for normal entry into the dwelling has both a keyed dead bolt and a keyless bolting device, installed in accordance with the height, strike plate, and throw requirements of Section 92.154; and

(2) all other exterior doors have a keyless bolting device installed in accordance with the height, strike plate, and throw requirements of Section 92.154.

(h) [(g)] A security device required by this section must be operable throughout the time a tenant is in possession of a dwelling. However, a landlord may deactivate or remove the locking mechanism of a doorknob lock or remove any device not qualifying as a keyless bolting device if a keyed dead bolt has been installed on the same door.

(i) A landlord is subject to the tenant remedies provided by Section 92.164(a)(4) if the landlord:

(1) deactivates or does not install a keyless bolting device, claiming an exemption under Subsection (e), (f), or (g); and

(2) knows or has reason to know that the requirements of the subsection granting the exemption are not fulfilled.

Amendment No. 4 was adopted without objection.

#### **Amendment No. 5**

Representative Ramsay offered the following amendment to the bill:

Amend **SB 1334** by inserting the following section:

On p. 7, between lines 10 & 11:

(k) Notwithstanding another provision of this subchapter, if a landlord receives a security deposit or full or partial prepayment from a person who does not then occupy the dwelling and the landlord later leases the same dwelling on or before the date set for occupancy by the non-occupying person, the

landlord shall refund the security deposit or rental prepayment paid by the non-occupying person. In addition, the landlord may not charge a releasing fee for refunding the money.

Representative Naishtat moved to table Amendment No. 5.

The motion to table was lost.

Amendment No. 5 failed of adoption.

**SB 1334**, as amended, was passed to third reading. (Averitt, Black, Cook, Junell, Kamel, and Patterson recorded voting no)

**SB 373 ON SECOND READING**  
**(Seidlits - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 373**.

**CSSB 373**, A bill to be entitled An Act relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

**CSSB 373** was read second time.

Representative Seidlits moved to postpone consideration of **CSSB 373** until 5 p.m. today.

The motion prevailed without objection.

**SB 1683 ON SECOND READING**  
**(Howard - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1683**.

**CSSB 1683**, A bill to be entitled An Act relating to the collection, management, and recycling of used oil and used oil filters; providing criminal penalties.

**CSSB 1683** was read second time.

**Amendment No. 1**

Representative Wohlgemuth offered the following amendment to **CSSB 1683**:

Amend **CSSB 1683** in SECTION 10 of the bill on page 27, line 17, by striking "may" and substituting "shall".

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Hirschi offered the following amendment to **CSSB 1683**:

Amend **CSSB 1683** page 8 line 23 through page 9 line 13 by deleting subsection 21 in its entirety and substituting in lieu thereof a new Subsection (21) to read as follows:

(21) "Used oil filter" means a non-terne-plated oil filter that as a result of

its use, storage, or handling has become contaminated by physical or chemical impurities and has been removed from service. An oil filter is an integral part of an oil-flow system, the purpose of which is to remove contaminants from the flowing oil contained within the system. The term "used oil filter" does not include an oil filter that remains with an engine block that is recycled, as defined by Section 361.421."

Representative Howard moved to table Amendment No. 2.

(Oakley in the chair)

The motion to table was lost.

(Speaker in the chair)

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Dukes offered the following amendment to **CSSB 1683**:

Amend **CSSB 1683** as follows:

In Section 371.002, Health & Safety Code, add an appropriately numbered Subdivision to read as follows:

( ) recycling, reuse, treatment, or proper disposal of used oil produces a more advantageous cost-benefit ratio in accomplishing the goals of state law, and these considerations should be included in the source reduction and waste minimization plans adopted under Section 361.505 to the extent applicable;

Amendment No. 3 was adopted without objection.

**CSSB 1683**, as amended, was passed to third reading. (T. Hunter recorded voting no; Finnell, present, not voting)

### **SB 103 ON SECOND READING (Naishtat - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 103**, A bill to be entitled An Act relating to providing guardianship services and a pooled income trust for incapacitated persons.

The bill was read second time.

### **Amendment No. 1**

Representative Hartnett offered the following amendment to the bill:

Amend **SB 103** in SECTION 1 of the bill by striking Sections 161.004(b)(2) and (3), Human Resources Code, as added by the bill (Committee printing page 3, lines 1-5) and substituting the following:

(2) two members of private associations of persons who advocate on the behalf of or in the interest of the elderly or person with mental illness or mental retardation; and

(3) two parents of incapacitated persons other than minors.

Amendment No. 1 was adopted without objection.

**SB 103**, as amended, was passed to third reading. (Heflin, T. Hunter, Kamel, Reyna, and Talton recorded voting no)

**SB 1697 ON SECOND READING**  
**(Walker - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1697**, A bill to be entitled An Act relating to the storage, processing, and disposal of radioactive waste, low-level waste, and mixed waste.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Yost, Representative Walker offered the following committee amendment to the bill:

Amend Section 1 of **SB 1697** by adding new Section 402.2741, Health and Safety Code, to read as follows:

Sec. 402.2741. FEES FOR STORAGE, TREATMENT OR DISPOSAL BY PRIVATE LICENSEE. (a) A person who accepts for storage or treatment mixed waste, as that term is defined in Section 402.224(b), or low-level waste, as that term is defined by Section 402.003, whether generated in this or any other state, including a licensee under Section 401.2031, shall pay the planning and implementation fee provided by Section 402.2721. Funds generated by assessment of the planning and implementation fee under this Section shall be deposited in the state treasury as provided by Section 402.275. The fee shall be calculated in accordance with Section 402.2721, except

(i) mixed waste shall be considered the same as low-level waste for the purpose of calculating amount of waste against which the fee shall be assessed; and

(ii) the fee shall not be less than the average comparable fee assessed on a comparable volumetric basis by any other states for treatment or storage of radioactive waste or mixed waste of comparable character and hazard at a facility located in those states.

(b) A person who delivers for disposal mixed waste, as that term is defined in Section 402.224(b), whether generated in this or any other state, to a person holding a radioactive waste disposal license, including a licensee under Section 401.2031, shall pay the waste disposal fee provided by Section 402.272. Funds generated by the disposal fee shall be deposited in the state treasury as provided by Sections 402.273 and 402.275. The fee shall be calculated in accordance with the applicable provisions of Section 402.273, except that

(i) mixed waste shall be considered the same as low-level waste, as that term is defined by Section 402.003, for the purpose of calculating amount of waste against which the fee shall be assessed; and

(ii) the fee shall not be less than the average comparable fee assessed on a comparable volumetric basis by any other states for disposal of radioactive or mixed waste of comparable character and hazard in a facility located in those states

(c) Acceptance of radioactive or mixed waste by a licensee under Section 401.2031 shall be construed as a guaranty by the licensee of payment of all fees due and owing under this Section.

(d) Not later than September 1, 1996, the board shall adopt final rules for assessment of the planning and implementation fee and the disposal fee as provided by the Section, together with any applicable surcharges, for treatment, storage or disposal of radioactive waste and mixed waste by a person licensed under Section 401.2031.

### **Amendment No. 2**

Representative Wolens offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 1697** to read as follows:

Amend Section 1 of **SB 1697** by adding new Section 401.2072, Health and Safety Code, to read as follows:

Sec. 401.2073. FEES FOR STORAGE, TREATMENT OR DISPOSAL BY PRIVATE LICENSEE. (a) A person who accepts for storage or treatment mixed waste, or low-level waste, as that term is defined by Section 402.003, whether generated in this or any other state, including a licensee under Section 401.2031, shall pay the planning and implementation fee provided by Section 402.2721. Funds generated by assessment of the planning and implementation fee under this Section shall be deposited in the state treasury as provided by Section 402.275.

(b) A private owner or operator of a mixed waste storage, processing or disposal facility shall pay the waste management fees as provided for in Section 361.136 for mixed waste managed on site.

(c) The Texas Natural Resources Conservation Commission by rule shall establish fee rates for disposal of mixed waste in addition to those fees paid in accordance with (b) of this Section. The Commission shall consider the factors as provided in Section 361.139 in establishing the fees authorized under this subsection, and the fees shall not exceed the average comparable fees assessed on a comparable volumetric basis by other states for disposal of mixed waste.

(d) Funds generated by (c) of this Section shall be deposited as provided by Section 402.275.

(e) In this section, "mixed waste" means a combination of hazardous waste, as that term is defined by Section 361.003, and low-level waste, as that term is defined by Section 402.003.

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

### **Amendment No. 3 (Committee Amendment No. 2)**

Representative Saunders offered the following committee amendment to the bill:

Amend **SB 1697** by adding new Section 3 to read as follows, and renumbering subsequent sections accordingly:

SECTION 3. Section 402.224, Health and Safety Code, is amended to read as follows:

Sec. 402.224. MIXED WASTE. (a) An on-site operator or a private entity licensed under Section 401.2031 who accepts mixed waste at a disposal site or a site licensed for treatment, storage or disposal of mixed waste under Section 401.2031 shall comply with Chapter 361 (Solid Waste Disposal Act), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq), and this chapter.

(b) In this section, "mixed waste" means a combination of hazardous waste as defined by Chapter 361 (Solid Waste Disposal Act) and low-level waste.

Amendment No. 3 was adopted without objection.

#### **Amendment No. 4**

Representative Gallego offered the following amendment to the bill:

Amend **SB 1697** by adding an appropriately numbered section to read as follows:

Section \_\_\_\_\_. Section 402.0921 of the Health and Safety Code is amended to read as follows:

Sec. 402.0921. Notwithstanding any other law or other provision of this chapter, the board shall select as the disposal site, a site in a county:

(1) ~~within Hudspeth County, Texas, and in which a private entity holds a permit to operate a hazardous waste landfill;~~

(2) ~~circumscribed on the north by 31 degrees north latitude, 15' and 00"; on the south by 31 degrees north latitude, 00' and 00"; on the east by 105-22' and 30"; that has a population of less than 25,000, and~~

(3) that has an average annual rainfall of less than 18 inches per year.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference committee on HB 1863 will reconvene in 5 minutes, E2.010, Capitol Extension.

#### **SB 1697 - (consideration continued)**

Representative Saunders raised a point of order against further consideration of **SB 1697** on the grounds that **SB 1697** violates Rule 8, Section 10(b), of the House Rules and Article III, Section 56, of the Texas Constitution.

The point of order was withdrawn.

Representative Walker moved to postpone consideration of **SB 1697** until 5:45 p.m. today.

The motion prevailed without objection.

(Speaker pro tempore in the chair)

#### **CSSB 373 ON SECOND READING**

**(Seidlits - House Sponsor)**

The chair laid before the house, as postponed business, on its second reading and passage to third reading, the complete committee substitute for **SB 373**.

**CSSB 373**, A bill to be entitled An Act relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

**CSSB 373** was read second time earlier today and was postponed until this time.

### MESSAGE FROM THE SENATE

Austin, Texas, May 23, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**SCR 165** by Montford, expressing gratitude to Mrs. Margaret Mills for her outstanding service as a Commissioner for the Texas Commission on the Arts.

**SCR 166** by Ratliff, in memory of Charles B. Smith.

Respectfully,  
Betty King  
Secretary of the Senate

### CSSB 373 - (consideration continued)

#### Amendment No. 1

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373** Section 2.03 on page 54, line 4 by inserting the following after the word "resources" and before the semicolon:

. An appropriate and reliable mix of resources may include a portfolio of cost-effective sources of power, including, but not limited to, resources that are fueled and non-fueled, such as renewable resources and conservation measures, and a mixture of long term and short term contracts

Amendment No. 1 was adopted without objection.

#### Amendment No. 2

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373** as follows:

1) In SECTION 2.03, page 65, line 13, insert the following between the words "process" and "the":

"and in setting rates for utilities which are not required to file an integrated resource plan"

2) In SECTION 2.21, page 99, beginning on line 21 strike the following words:

"less than the rate approved by the regulatory authority and for a person to pay such lesser charge if such lesser charge is"

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend Section 2.08 of **CSSB 373** by striking Sec. 2.057(g), page 78, beginning at line 21 through page 79, line 27, and renumbering the subsequent subsection accordingly.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373**, SECTION 2.03 by striking Subsection 2.051(ee) and inserting the following new Subsection 2.051(ee):

(ee) To the extent that the public utility is required by the commission to reimburse a municipality for expenses the municipality incurred for its participation in a proceeding under this section, the commission shall, as part of its determination approving the public utility's integrated resource plan, authorize a surcharge to be included in the public utility's rates to recover the municipality's expenses for participating in the integrated resource plan proceeding before the public utility's next preliminary integrated resource plan is filed. The reasonable expenses of the public utility for planning, preparation and participation in such a proceeding may only be recovered after commission review conducted in accordance with the provisions of either Section 2.211 or 2.212 of this Act.

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend Section 2.16 of **CSSB 373** (House Committee Report, First Printing, page 90, line 20), to read as follows:

(b) Transactions with Affiliated Interests. Payment to affiliated interests for costs of any services or any property, right, or thing or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority shall find such payment to be reasonable and necessary for each item or class or items as determined by the commission. Any such finding shall include specific findings of the reasonableness and necessity of each item or class of items allowed and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or class of items or to unaffiliated persons or corporations. In making such findings regarding affiliate transactions, including affiliate transactions subject to Section 2.051, the regulatory authority shall make a determination regarding the extent to which the conditions and circumstances of such transactions are reasonably comparable relative to quantity, terms and conditions, date of contract, and place of delivery and allow for appropriate differences based on that determination. Nothing herein requires such findings to be made prior to the inclusion of such payments in the utility's charges to consumers so long as there is a mechanism for making such charges subject to refund pending the making of such findings. [The price paid by gas utilities

~~to affiliated interests for natural gas from Outer Continental Shelf lands shall be subject to a rebuttable presumption that such price is reasonable if the price paid does not exceed the price permitted by federal regulation if such gas is regulated by any federal agency or if not regulated by a federal agency does not exceed the price paid by nonaffiliated parties for natural gas from Outer Continental Shelf lands. The burden of establishing that such a price paid is not reasonable shall be on any party challenging the reasonableness of such price.]~~

Amendment No. 5 was adopted without objection.

#### **Amendment No. 6**

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373** on page 102, beginning on line 21 by striking subsection 4c(a) and replacing with the following:

Sec. 4c. (a) After the effective date of this section, an electric cooperative corporation may form a joint powers agency with one or more public entities as if the electric cooperative corporation were a public entity. This section becomes effective September 1, 1995.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding the following appropriately numbered Section in Article 1 to read as follows and renumbering subsequent Sections accordingly:

SECTION 1.\_\_\_\_. Section 3.211(g), Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(g) A rate or tariff set by the commission may not authorize a utility to automatically adjust and pass through to its customers changes in costs of the utility. This subsection does not limit the right of the public utility to pass through municipal fees, including any increase in municipal fees. A public utility that traditionally passes through municipal fees shall promptly pass through any reductions.

Amendment No. 7 was adopted without objection.

#### **Amendment No. 8**

Representative Danburg offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by striking Section 1.26 and 2.13 of the bill and renumbering sections appropriately.

Representative Seidlits moved to table Amendment No. 8.

The motion to table prevailed.

#### **Amendment No. 9**

Representative Carter offered the following amendment to **CSSB 373**:

Amend Section 2.01 of **CSSB 373** as follows:

In Subsection (d), Section 2.001, Public Utility Regulatory Act of 1995 (House committee printing page 47, lines 12-17), strike the following sentence:

"The mark-ups, if any, approved pursuant to Section 2.051 and 2.1511 are an exceptional form of rate relief which may be recovered from ratepayers only on entry of a finding by the commission that such relief is necessary to maintain the financial integrity of the utility."

Representative Seidlits moved to table Amendment No. 9.

The motion to table prevailed.

#### **Amendment No. 10**

Representative Hirschi offered the following amendment to **CSSB 373**:

Amend **CSSB 373** as follows:

(1) On page 56, line 16 insert the following and renumber accordingly: The cost of repowering, refurbishing, or rehabilitating existing power plants over the period:

(2) On page 58, line 17 insert a new section (D): (D) the estimated cost of repowering, refurbishing, or rehabilitating existing power plants over the period.

(3) On page 61, line 10 add an additional section (5) and renumber accordingly: (5) an application for a permit to repower, refurbish, or rehabilitate an existing power plant.

(4) On page 62, line 17 add an additional section (6) and renumber accordingly: (6) the commission should approve an application for a permit to repower, refurbish, or rehabilitate an existing power plant.

Amendment No. 10 was withdrawn.

#### **Amendment No. 11**

On behalf of Representative Dutton, Representative Seidlits offered the following amendment to **CSSB 373**:

Amend **CSSB 373** as follows:

1) add the following on page 70 at line 3 after the period:

The legal and legislative expenses of the utility attributable to their participation in the proceedings under this section shall also be shown on the bill as a surcharge.

Amendment No. 11 was withdrawn.

#### **Amendment No. 12**

Representative Hirschi offered the following amendment to **CSSB 373**:

Amend **CSSB 373** as follows:

Amend section 2.07 on page 76, line 10 by adding the following after the period. In addition, the commission shall include in the report an analysis of problems faced by competitors in obtaining access to the transmission grid, study whether regulation of the grid as a common carrier, public ownership or continued private ownership of the grid by utilities or by others is the most cost

effective and shall recommend ways that the grid could be controlled and owned to assure that transmission services are provided universally to all competitors at lowest cost.

Representative Seidlits moved to table Amendment No. 12.

The motion to table prevailed.

### **Amendment No. 13**

Representative S. Turner offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding an appropriately numbered section to read as follows and renumbering subsequent sections appropriately:

Section \_\_\_\_\_. Subtitle K, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.407 to read as follows:

Sec. 1.407. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The commission by rule shall require each utility to make a good faith effort to overcome the underuse of historically underutilized businesses as shown for private industry by the disparity study conducted under H.B. 2626, Acts of the 73rd Legislature, 1993.

(b) The commission may conduct further research and analysis to adjust the results of the disparity study as necessary to account for specific underuse of historically underutilized businesses by the utility industry.

(c) The rules adopted under this section must require each utility to prepare and submit to the commission a strategic plan for use of historically underutilized business.

Amendment No. 13 was withdrawn.

### **Amendment No. 14**

Representative King offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding a new SECTION 2.31 and renumbering subsequent Sections:

"SECTION 2.31. Notwithstanding any other provision of the Act, where a general rate case was initiated in 1994, the law in effect when the complaint or petition was filed shall be continued in effect for such a proceeding until the proceeding is concluded by a final appealable decision."

Amendment No. 14 was adopted without objection.

### **Amendment No. 15**

Representatives Uher and Allen offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding the following new SECTION \_\_\_\_ and renumbering subsequent sections as appropriate.

SECTION \_\_\_\_\_. Subsection (b), Section 2.255, Public Utility Regulatory Act of 1995, as enacted by S.B. No. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) The commission may grant applications and issue certificates only if the commission finds that the certificate is necessary for the service,

accommodation, convenience, or safety of the public. The commission may issue the certificate as prayed for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. Notwithstanding any other provision of this Act, the commission shall have no power or authority to issue a certificate of convenience and necessity to an entity not certificated to provide retail electric service to a retail service area in this state as of January 1, 1995 when one of the purposes of such certificate would be to resell electricity generated by a non-utility, or the construction or operation of any facility the purpose of which includes the transmission or sale or power between a non-utility generator and an ultimate consumer.

#### **Amendment No. 16**

Representative Oliveira offered the following amendment to Amendment No. 15:

Amend Amendment No. 15 by Uher and Allen to **CSSB 373** by striking the period at the end of the amendment and substituting:

, provided that this does not affect the ability of a joint powers agency created under Section 4c, Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Vernon's Texas Civil Statutes), to obtain a certificate of convenience and necessity under this Act.

Amendment No. 16 was adopted without objection.

#### **MESSAGE FROM THE SENATE**

Austin, Texas, May 23, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to the following Senate Bills and requests the appointment of a Conference Committee to adjust the differences between the two houses:

**SB 646** Senate Conferees: Barrientos, Chair, Wentworth, Cain, Gallegos and Rosson.

**SB 840** Senate Conferees: Brown, Chair, Armbrister, Montford, Madla and Shapiro.

Respectfully,  
Betty King  
Secretary of the Senate

#### **CSSB 373 - (consideration continued)**

Amendment No. 15, as amended, was withdrawn.

#### **Amendment No. 17**

Representative S. Turner offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding an appropriately numbered section to read as follows and renumbering subsequent sections appropriately:

Section \_\_\_\_\_. Subtitle K, Title I, Public Utility Regulatory Act of 1995, as enacted by SB 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.407 to read as follows:

Sec. 1.407. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The commission by rule shall require each utility to make a good faith effort to overcome the underuse of historically underutilized businesses as shown for private industry by the disparity study conducted under HB 2626, Acts of the 73rd Legislature, 1993.

(b) The commission may conduct further research and analysis to adjust the results of the disparity study as necessary to account for specific underuse of historically underutilized businesses by the utility industry.

(c) The rules adopted under this section must require each utility to prepare and submit to the commission a strategic plan for use of historically underutilized businesses.

#### **Amendment No. 18**

Representative Seidlits offered the following amendment to Amendment No. 17:

Amend Amendment No. 17 by S. Turner to read as follows:

Amend **CSSB 373** by adding a new section to read as follows:

SECTION \_\_\_\_ The Public Utility Regulatory Act, as enacted by SB 319, 74th Legislature, Regular Session, is amended by adding a new section 1.407 to read as follows:

Section 1.407. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The commission, upon notice and hearing, has the authority to require each utility subject to regulation under the Public Utility Regulatory Act to make an effort to overcome the underuse of historically underutilized businesses.

(b) The commission shall require each utility subject to regulation under Public Utility Regulatory Act to prepare and submit to the commission a comprehensive annual report detailing its use of historically underutilized businesses.

(c) In this section "historically underutilized business" has the same meaning as in Section 481.101, Government Code.

(d) The rules adopted under this section may not be used to discriminate against any citizen on the basis of sex, race, color, creed or national origin.

(e) This section does not create a new cause of action, either public or private.

Representative S. Turner moved to table Amendment No. 18.

A record vote was requested.

The motion to table was lost by (Record 507): 30 Yeas, 107 Nays, 2 Present, not voting.

Yeas — Alonzo; Berlanga; Coleman; Conley; Davila; Davis; Dukes; Dutton; Farrar; Gallego; Giddings; Hernandez; Hochberg; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; Oliveira; Pickett; Puente; Raymond; Rodriguez; Romo; Smithee; Thompson; Torres; Turner, S.; Van de Putte; Wilson.

Nays — Alexander; Allen; Alvarado; Averitt; Bailey; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Place; Price; Rabuck; Ramsay; Rangel; Reyna; Rhodes; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Turner, B.; Walker; West; Williamson; Willis; Wolens; Woolley; Yarbrough; Yost; Zbrank.

Present, not voting — Mr. Speaker; Uher(C).

Absent — Clemons; Edwards; Ehrhardt; Eiland; Greenberg; Harris; Hightower; King; Moreno; Naishtat; Wohlgemuth.

### STATEMENTS OF VOTE

When Record No. 507 was taken, I was temporarily out of the house chamber. I would have voted no.

Clemons

When Record No. 507 was taken, I was in the house but away from my desk. I would have voted no.

Eiland

Amendment No. 18 was withdrawn.

Amendment No. 17 was withdrawn.

### Amendment No. 19

Representatives Danburg and Stiles offered the following amendment to **CSSB 373**:

Amend **CSSB 373** by adding a new Section 2.09 adding Section 2.059 at page 80, line 3, to read as follows, and renumbering existing Section 2.09 and the succeeding sections accordingly:

SECTION 2.09. Subtitle B, Title II, Public Utility Regulatory Act of 1995, as enacted by SB 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.059 to read as follows:

### Section 2.059. ELECTRIC UTILITIES; REGULATION OF COMPETITION.

(a) It is the policy of this state to protect the public interest in having adequate and efficient electric service available to consumers at just, fair, and reasonable rates. The legislature finds that the electric industry, through technical advancements, federal legislative and administrative actions, and the formulation of new electric enterprises, can become in many and growing areas a competitive industry that does not lend itself to traditional public utility regulatory rules and policies and that, therefore, the public interest requires that

new rules and policies be formulated and applied to protect the public interest and to provide equal opportunity to all electric service providers in a competitive marketplace. It is the purpose of this section to grant to the commission the authority to carry out the public policy herein stated.

(b) For the purpose of carrying out the public policy stated in Subsection (a) of this section, and any other section of this Act notwithstanding, the commission is granted all necessary power and authority to promulgate rules and establish procedures applicable to public utilities to facilitate the development of competition consistent with the public interest and, where the commission determines that sufficient competition exists in specific electric markets or submarkets, to provide appropriate regulatory treatment to allow electric utilities to respond to significant competitive challenges. Nothing in this section is intended to change the burden of proof of an electric utility under Sections 2.202, 2.203, 2.204, 2.205, 2.206, 2.207, and 2.208 of this Act, as applicable, for services that are not subject to such competitive challenges.

(c) In promulgating rules and policies under this section, the commission shall seek to balance the public interest in a technologically advanced electric system providing services that are attractive to consumers with traditional regulatory concerns for preserving the quality and availability of service, prohibiting anti-competitive pricing and practices, preventing the subsidization of competitive services with revenues from regulated monopoly services, and maintaining rates that are not unreasonably preferential, prejudicial, or discriminatory and that are not subsidized either directly or indirectly by regulated monopoly services. The commission shall promulgate these rules and procedures so as to incorporate an appropriate mix of regulatory and market mechanisms reflecting the level and nature of competition in the marketplace.

(d) For the purposes of this section only, "public utility" and "electric utility" include an exempt wholesale generator, power marketer, and qualifying facility, river authority, and municipally owned utility.

Amendment No. 19 was adopted without objection.

**CSSB 373**, as amended, was passed to third reading.

### **HR 1049 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1049**, suspending the limitations on the conferees for **HB 327**.

### **SB 1675 ON SECOND READING**

**(Berlanga, Naishtat, and Maxey - House Sponsors)**

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1675**.

**CSSB 1675**, A bill to be entitled An Act relating to powers and duties of the Health and Human Services Commission.

**CSSB 1675** was read second time.

### **Amendment No. 1**

Representative Berlanga offered the following amendment to **CSSB 1675**:

Amend **CSSB 1675**, section 11(b)(3) line 20 by removing the word "proprietary" between the words "use" and "software".

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Maxey offered the following amendment to **CSSB 1675**:

Amend **CSSB 1675** by adding the following new subsection 12(b)(3) on page 2, between lines 4 and 5:

(3) to communicate to the public on the input received and actions taken in response.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Maxey offered the following amendment to **CSSB 1675**:

Amend **CSSB 1675** by adding the following new subsection 11(e) on page 11, between lines 8 and 9:

(e) If more than one state agency is directed to perform any study in this section, the agencies involved shall sign a memorandum of understanding to prevent duplication of efforts and costs to the state.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Hirschi offered the following amendment to **CSSB 1675**:

Amend **CSSB 1675** as follows:

1. On page 11, between lines 8 and 9, insert subsection (e): "The Health and Human Services Commission may not implement the finding of the feasibility study required by subsection (d) without legislative approval."

2. On page 12, line 10, between the word "processing" and the period, insert "if approved by the Legislature".

Amendment No. 4 was withdrawn.

**CSSB 1675**, as amended, was passed to third reading. (Corte recorded voting no)

**SB 867 ON SECOND READING**  
**(Coleman - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 867**, A bill to be entitled An Act relating to the use of the advance interest trust fund by the Texas Employment Commission.

The bill was read second time and was passed to third reading. (Heflin recorded voting no)

**SJR 7 ON SECOND READING**  
**(Giddings - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SJR 7**, A joint resolution proposing a constitutional amendment allowing investment of money from the Texas growth fund in a business without the business's disclosure of its investments in or with South Africa or Namibia.

A record vote was requested.

The resolution was read second time and was adopted by (Record 508): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher(C); Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker.

Absent — Alvarado; Danburg; Woolley.

#### **SJR 46 ON SECOND READING (Cook - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SJR 46**, A joint resolution proposing a constitutional amendment permitting an encumbrance to be fixed on homestead property for an owelty of partition and the refinance of a lien against a homestead.

The resolution was read second time.

#### **Amendment No. 1**

Representative Cook offered the following amendment to the resolution:

Amend **SJR 46** as follows:

(1) On page 1, lines 11 and 12 between "property" and "by", strike "~~designated as a homestead~~".

Amendment No. 1 was adopted without objection.

(Speaker in the chair)

Representative Cook moved to postpone consideration of **SJR 46** until 11:30 p.m.

The motion prevailed without objection.

**RULES SUSPENDED**

Representative Stiles moved to suspend all necessary rules to take up and consider the bills on third reading on today's general state calendar at 10 a.m. tomorrow.

The motion prevailed without objection.

**SB 1697 ON SECOND READING  
(Walker - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

**SB 1697**, A bill to be entitled An Act relating to the storage, processing, and disposal of radioactive waste, low-level waste, and mixed waste.

**SB 1697** was read second time earlier today and was postponed until this time.

Amendment No. 4 was pending.

Representative Greenberg raised a point of order against further consideration of **SB 1697** on the grounds that **SB 1697** violates Rule 4, Section 32(c), of the House Rules.

The speaker overruled the point of order, speaking as follows:

Representative Greenberg raised a point of order against further consideration of **SB 1697** under Rule 4, Section 32(c), in that the committee report does not contain an explanation of the committee amendments.

The chair has reviewed the committee report and notes that 2/3 of page 2 of the bill analysis explains the amendments.

Accordingly, the point of order is without merit and overruled.

Representative Saunders raised a point of order against further consideration of **SB 1697** on the grounds that **SB 1697** violates Rule 8, Section 10(b), of the House Rules, and Article III, Section 56, of the Texas Constitution.

The speaker ruled on the point of order, speaking as follows:

Representative Saunders raises a point of order against further consideration of **SB 1697** under Rule 8, Section 10(b), and Article III, Section 56, of the Texas Constitution, in that the bill is limited in application by artificial devices.

Following argument from both sides, the chair finds that the classification based on population and annual rainfall is reasonable in relation to the purpose of the bill. Accordingly, that part of Mr. Saunders point of order is respectfully overruled.

However, the bill's additional limiting device, which limits the bill to an existing group of permit holders, creates a closed class that may never be expanded. The chair finds this to effectively make the bill a special or local law in violation of the rules and the constitution.

Accordingly, this part of the Saunders point of order is well-taken and sustained.

Further explanation of this ruling will be entered in the journal, as follows:

The bill is limited in its application to counties with a population of less than 25,000 and an average annual rainfall of less than 18 inches. The chair is advised that there are approximately 19 counties that qualify under that classification scheme. The bill adds a further limiting device by providing that the license may be issued only to a private entity that held a commercial hazardous waste landfill permit on January 1, 1995.

Rule 8, Section 10(b), expressly permits consideration a bill with such a classification scheme if the classification criteria bear a reasonable relation to the purpose of the proposed bill. This standard mirrors that adopted by the courts in applying Article 3, Section 56. The population and rainfall devices arguably serve the reasonable purpose of ensuring that such hazardous waste is disposed of in a scarcely populated area, with low annual rainfall, to protect persons and natural resources.

However, the additional limiting device that the license be issued only to a private entity that already holds a commercial hazardous waste permit limits the application of the bill to one or more current operators. In effect, the group of eligible entities is closed and always will be; no change in situations will allow other permit holders in other counties to qualify. Unless a change in circumstances would permit additional counties and permit holders to qualify, the bill is not general in nature but is in fact a local or special law.

The effect is the same as a bill employing a closed population bracket in which, because the bracket is closed at both ends or by reference to a particular census, no change in population will enable a different political subdivision or group of subdivisions to qualify under the law. The courts and presiding officers have consistently held invalid such closed classifications shemes.

Accordingly, the chair finds that the bill employs an artificial limiting device in violation of Rule 8, Section 10, and Article 3, Section 56, of the Texas Constitution. Accordingly, the point of order is well-taken and sustained.

### **SB 438 ON SECOND READING** **(Alexander - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 438**.

**CSSB 438**, A bill to be entitled An Act relating to the operation of overweight vehicles on highways and inspection of certain bridges; providing criminal penalties.

**CSSB 438** was read second time.

#### **Amendment No. 1**

Representative Swinford offered the following amendment to **CSSB 438**:

Amend **CSSB 438** as follows:

(1) On page 2, line 22, strike "or the distance between axles".

Amendment No. 1 was withdrawn.

Representative Craddick raised a point of order against further consideration of **CSSB 438** on the grounds that **CSSB 438** violates Rule 4, Section 32(b)(9), of the House Rules.

The point of order was withdrawn.

**Amendment No. 2**

Representative Clemons offered the following amendment to **CSSB 438**:

Amend **CSSB 438** in SECTION 2 of the bill as follows:

(1) Strike the recital of the law being amended in SECTION 2 (House Committee Report, page 2, lines 5-9) and substitute the following:

SECTION 2. Section 5B, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (e), and (i) and adding Subsections (j) and (k) to read as follows:

(2) Strike proposed Subsection (l) of Section 5B, Article 6701d-11 (House Committee Report, page 6, lines 15 through 26).

Representative Craddick raised a point of order against further consideration of **CSSB 438** on the grounds that **CSSB 438** violates Rule 4, Section 32(b)(9), of the House Rules.

The speaker sustained the point of order.

**SB 780 ON SECOND READING**  
**(Gutierrez - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 780**, A bill to be entitled An Act relating to temporary justices of the peace.

The bill was read second time and was passed to third reading.

**SB 1349 ON SECOND READING**  
**(Combs and Greenberg - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1349**.

**CSSB 1349**, A bill to be entitled An Act relating to subsequent evidentiary search warrants.

**CSSB 1349** was read second time and was passed to third reading.

**SB 337 ON SECOND READING**  
**(Carter - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 337**, A bill to be entitled An Act relating to requiring the use of protective helmets for bicycle safety.

The bill was read second time.

Representative Jackson raised a point of order against further consideration of **SB 337** on the grounds that **SB 337** violates Rule 4, Section 28, of the House Rules.

The point of order was withdrawn.

Representative Carter moved to postpone consideration of **SB 337** until 8:15 p.m. today.

The motion prevailed without objection.

**SB 520 ON SECOND READING**  
**(Telford - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 520**, A bill to be entitled An Act relating to eligibility for retirement and benefits under the Texas Municipal Retirement System.

The bill was read second time and was passed to third reading.

**SB 563 ON SECOND READING**  
**(McCoulskey - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 563**, A bill to be entitled An Act relating to the authority to abolish the position of marshal in a Type B general-law municipality.

The bill was read second time and was passed to third reading.

**SB 733 ON SECOND READING**  
**(Saunders - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 733**, A bill to be entitled An Act relating to regulating the taking, purchase, and sale of certain fish.

The bill was read second time and was passed to third reading.

**SB 727 ON SECOND READING**  
**(Ogden - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 727**, A bill to be entitled An Act relating to certain nonprofit corporations that purchase or make student or parent loan notes.

The bill was read second time and was passed to third reading.

**SB 695 ON SECOND READING**  
**(Oakley - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 695**, A bill to be entitled An Act relating to the personnel records of certain law enforcement officers and fire protection personnel; providing a criminal penalty.

The bill was read second time.

The speaker postponed consideration of **SB 695** until 10 p.m. today.

**SB 1016 ON SECOND READING**  
**(R. Lewis - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1016**, A bill to be entitled An Act relating to the powers of water control and improvement districts.

The bill was read second time and was passed to third reading.

**SB 876 ON SECOND READING**  
**(Madden - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 876**.

**CSSB 876**, A bill to be entitled An Act relating to the authority of a municipality to implement a photographic traffic-control system or a photographic preferential traffic lane enforcement system; providing for imposition of civil penalties.

**CSSB 876** was read second time.

**Amendment No. 1**

Representative Madden offered the following amendment to **CSSB 876**:

Amend **CSSB 876** as follows:

On page 3, between lines 5 and 6, insert a new subsection (e) as follows and renumber the remaining subsections accordingly:

"(e) If a municipality adopts an ordinance under Subsection (a) of this section, the ordinance must prescribe the amount of the civil penalty. The amount of the civil penalty may not exceed \$200."

Amendment No. 1 failed of adoption.

**CSSB 876** failed to pass to third reading. (Finnell recorded voting no)

Representative Wilson moved to reconsider the vote by which **CSSB 876** failed to pass to third reading and to table the motion to reconsider.

The motion was withdrawn.

**SB 885 ON SECOND READING**  
**(Brady and Smithee - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 885**.

**CSSB 885**, A bill to be entitled An Act relating to the eligibility for workers' compensation benefits of professional athletes employed by a franchise of the International Hockey League or the National Hockey League.

**CSSB 885** was read second time and was passed to third reading.

**SB 647 ON SECOND READING**  
**(Walker - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 647**, A bill to be entitled An Act relating to the involvement of the Texas Department of Licensing and Regulation in the regulation of water well pump installers.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Walker offered the following committee amendment to the bill:

**SB 647** is amended by adding a new Section 6 as set out below and renumbering all sections thereafter as appropriate:

Section 6. DISPOSITION OF REVENUES. All money collected by the commission under this chapter shall be deposited to the credit of the water well drillers fund and may be used only to administer this chapter. The commission shall allocate not more than 20 percent of the water well drillers fund to cover administrative costs of the commission.

**SB 647** is amended by renumbering existing Section 6 and 7 to Section 7 and 8.

Amendment No. 1 was adopted without objection.

**SB 647**, as amended, was passed to third reading.

**SB 675 ON SECOND READING**  
**(Walker - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 675**, A bill to be entitled An Act providing for the exemption from regulation by the Texas Department of Licensing and Regulation of water well drillers.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Walker offered the following committee amendment to the bill:

**SB 675**, Section 1, is amended by adding the following definition between lines 1 and 11 and renumbering as appropriate.

"Deteriorated well" means a well that, because of its condition, will cause, or is likely to cause, pollution of any water in this state, including groundwater.

Amendment No. 1 was adopted without objection.

**Amendment No. 2 (Committee Amendment No. 2)**

Representative Walker offered the following committee amendment to the bill:

**SB 675**, Section 4, is amended by adding Section 32.006(i) of the Water Code to read as follows:

A member of the council is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the council. A member may receive compensation for travel expenses, including expenses for meals and lodging. A member is entitled to compensate for transportation expenses as prescribed by the General Appropriations Act.

Renumber existing Section 4 through 7 to Sections 5 through 8, respectively.

Amendment No. 2 was adopted without objection.

**Amendment No. 3 (Committee Amendment No. 3)**

Representative Walker offered the following committee amendment to the bill:

**SB 675**, Section 6, is amended by adding Section 32.014 of the Water Code to read as follows:

**DISPOSITION OF REVENUES.** All money collected by the commission under this chapter shall be deposited to the credit of the water well drillers fund and may be used only to administer this chapter. The commission shall allocate not more than 20 percent of the water well drillers fund to cover administrative costs of the commission.

Renumber Sections 6 through 7 to Sections 7 through 8.

Amendment No. 3 was adopted without objection.

**Amendment No. 4 (Committee Amendment No. 4)**

Representative Walker offered the following committee amendment to the bill:

**SB 675**, Section 7, is amended by adding Section 32.017(e) of the Water Code to read as follows:

(e) A licensed driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to the executive director not later than the 30th day after the date the well is plugged. The commission shall furnish plugging report forms on request.

Renumber Sections 7 through 8 to Sections 8 through 9.

Amendment No. 4 was adopted without objection.

**SB 675**, as amended, was passed to third reading.

**SB 99 ON SECOND READING**  
**(Giddings - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 99**, A bill to be entitled An Act relating to construction change orders.

The bill was read second time and was passed to third reading. (T. Hunter recorded voting no)

**SB 72 ON SECOND READING**  
**(T. Hunter - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 72**, A bill to be entitled An Act relating to the release of information kept in vessel and outboard motor ownership records.

The bill was read second time and was passed to third reading.

**SB 42 ON SECOND READING**  
**(Madden, Kamel, and West - House Sponsors)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 42**.

**CSSB 42**, A bill to be entitled An Act relating to access to criminal history record information by certain organizations providing volunteer services.

**CSSB 42** was read second time and was passed to third reading.

**SB 80 ON SECOND READING**  
**(Madden - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 80**, A bill to be entitled An Act relating to requiring training in issues concerning sex offender characteristics for certain judicial and law enforcement professionals.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Thompson, Representative Madden offered the following committee amendment to the bill:

Amend **SB 80**, on page 3, line 7, between "characteristics" and "." by inserting the following: "unless determined by the agency head to be inconsistent with the officer's assigned duties".

Amendment No. 1 was adopted without objection.

**SB 80**, as amended, was passed to third reading.

**SB 169 ON SECOND READING**  
**(Naishtat - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 169**.

**CSSB 169**, A bill to be entitled An Act relating to the interstate placement of an assistance to children; creating offenses and providing penalties.

**CSSB 169** was read second time and was passed to third reading.

**SB 39 ON SECOND READING**  
**(Combs - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 39**, A bill to be entitled An Act relating to the making of a statement to a court and to the defendant by a victim of a criminal offense or the victim's relative or guardian.

The bill was read second time and was passed to third reading.

**SB 206 ON SECOND READING**  
**(Denny - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 206**, A bill to be entitled An Act relating to fees and expenses for the services of a peace officer.

The bill was read second time and was passed to third reading.

**SB 242 ON SECOND READING**  
**(Denny - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 242**, A bill to be entitled An Act relating to violence prevention and conflict resolution training for use in juvenile probation.

The bill was read second time.

**Amendment No. 1**

Representative Denny offered the following amendment to the bill:

Amend **SB 242** by adding a new Section 2 to read as follows and renumbering the other sections of the bill accordingly:

SECTION 2. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.047 to read as follows:

Sec. 61.047. VIOLENCE PREVENTION AND CONFLICT RESOLUTION EDUCATION. The commission shall provide education in violence prevention and conflict resolution that includes discussion of domestic violence and child abuse issues to all children in its custody.

Amendment No. 1 was adopted without objection.

**SB 242**, as amended, was passed to third reading.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Calendars, 8:20 p.m. today, speakers committee room, to set the calendar.

**SB 667 ON SECOND READING**  
**(Janek - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 667**, A bill to be entitled An Act relating to the disclosure of health and mental health care information by certain providers of health care or mental health care.

The bill was read second time.

**Amendment No. 1**

Representatives Wohlgemuth and Danburg offered the following amendment to the bill:

Amend **SB 667** as follows:

(1) Add a new subsection (f) to Section 245.005, Health and Safety Code, to read as follows:

(f) Information regarding the licensing status of an abortion facility is open records for the purposes of Chapter 552, Government Code, and shall be made available by the department upon request.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Janek offered the following amendment to the bill:

(1) Amend **SB 667**, SECTION 1, Sec. 241.151, by striking Subsection (4) in its entirety and by substituting the following:

(4) "Legally authorized representative" means a parent or legal guardian if the patient is a minor, a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs, an agent of the patient authorized under a durable power of attorney for health care, an attorney ad litem appointed for the patient, a guardian ad litem appointed for the patient, a personal representative or statutory beneficiary if the patient is deceased, or an attorney retained by the patient or by the patient's legally authorized representative."

(2) Amend SECTION 2, Sec. 1.03(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) by striking Subdivision (17) in its entirety and by substituting the following:

(17) "Legally authorized representative" means a parent or legal guardian if the patient is a minor, a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs, an agent of the patient authorized under a durable power of attorney for health care, an attorney ad litem appointed for the patient, a guardian ad litem appointed for the patient, a personal representative or statutory beneficiary if the patient is deceased, or an attorney retained by the patient or by the patient's legally authorized representative.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Janek offered the following amendment to the bill:

Amend **SB 667**, Section 1, Section 241.154, on page 4, line 23, by inserting or for disclosures under Section 241.153 not requiring written authorization, after the word "information," and by striking the word "authorized" on page 4, line 27 and page 5, line 2.

Amendment No. 3 was adopted without objection.

**SB 667**, as amended, was passed to third reading.

**SB 1037 ON SECOND READING  
(Carona - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1037**, A bill to be entitled An Act relating to the custodians of local government and state agency funds.

The bill was read second time and was passed to third reading.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Rodriguez moved to suspend all necessary rules to allow the Committee on Local and Consent Calendars to meet while the house is in session.

The motion prevailed without objection.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, at this time, speakers committee room.

**SB 1426 ON SECOND READING  
(R. Lewis - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1426**, A bill to be entitled An Act relating to security devices in certain rental dwellings.

The bill was read second time.

**Amendment No. 1**

Representative King offered the following amendment to the bill:

Amend **SB 1426** in SECTION 2 of the bill, in Section 92.157, Property Code, by striking Subsection (b) (House Committee Report, page 6, lines 12-15) and substituting the following:

(b) At the request, made at any time, of a tenant who does not already have a keyless bolting device on an exterior door, a landlord shall install, in accordance with the manufacturer's recommended procedures and at the tenant's expense, a floor-mounted bolting device purchased at the tenant's expense.

Notwithstanding another provision of this subchapter, a landlord is not required to install a keyless bolting device for a tenant whose exterior door is equipped with a floor-mounted bolting device.

Amendment No. 1 was adopted without objection.

### **Amendment No. 2**

Representatives Solomons and Carona offered the following amendment to the bill:

Amend **SB 1426** by adding a new SECTION 3 as follows, renumbering the remaining SECTIONS accordingly:

SECTION 3. Amend Section 91.153(a), Property Code, to read as follows:

Sec. 92.153. SECURITY DEVICES REQUIRED WITHOUT NECESSITY OF TENANT REQUEST. (a) Except as provided by Subsections (b), (e), (f), and (g), and without necessity of request by the tenant, a dwelling must be equipped with:

(1) a window latch on each exterior window of the dwelling;

(2) a doorknob lock or keyed dead bolt on each exterior door except as provided in Subsection (g);

(3) a sliding door pin lock [~~a sliding door handle latch, or a sliding door security bar~~] on each exterior sliding glass door of the dwelling [~~if construction of the dwelling was completed before September 1, 1993, and the calendar date is before January 1, 1995~~];

(4) [~~a sliding door pin lock and~~]either a sliding door handle latch or a sliding door security bar on each exterior sliding glass door of the dwelling [~~if construction of the dwelling was completed on or after September 1, 1993~~]; and

(5) a keyless bolting device and a door viewer on each exterior door of the dwelling [~~if initial construction of the dwelling was completed on or after September 1, 1993; and~~]

[~~(6) a keyless bolting device and a door viewer on each exterior door of the dwelling, if the calendar date is January 1, 1995, or later~~].

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representatives Solomons and Carona offered the following amendment to the bill:

Amend **SB 1426** by adding four new SECTIONS to read as follows, renumbering the remaining SECTIONS accordingly:

SECTION 4. Amend Subchapter 92.153(a) by changing the phrase "Subsections (b) (e), (f), and (g)" to "Subsections (b), (e), (f), (g), and (h)".

SECTION 5. Amend Section 92.153(e)(2), Property Code, by changing the phrase "the tenant" to "a tenant or occupant".

SECTION 6. Amend Section 92.153, Property Code, by adding a new Subsection (f) to read as follows, with the remaining sections renumbered accordingly:

(f) A keyless bolting device is not required to be installed at the landlord's expense on an exterior door if:

(1) a tenant or occupant in the dwelling is over 55 years of age or has a physical or mental disability; and

(2) the tenant requests in writing that the landlord deactivate or not install the keyless bolting device and the tenant certifies in the request that the tenant or occupant is over 55 years of age or has a physical or mental disability. The request must be in a separate document and may not be included as part of a lease. A landlord is not exempt as provided by this subsection if the landlord knows or has reason to know that the requirements of this subsection are not fulfilled.

SECTION 7. Amend Section 92.153, Property Code, by adding a new subsection (i) to read as follows:

(i) A landlord is subject to the tenant remedies provided by Section 92.164(a)(4) if the landlord:

(1) deactivates or does not install a keyless bolting device, claiming an exemption under Subsection (e), (f), or (g); and

(2) knows or has reason to know that the requirements of the subsection granting the exemption are not fulfilled.

Amendment No. 3 was adopted without objection.

#### **Amendment No. 4 (Committee Amendment No. 1)**

Representative Solomons offered the following committee amendment to the bill:

Amend **SB 1426** as follows: by adding a new SECTION 2 on Page 5, line 23, to read as follows and renumbering subsequent sections appropriately:

SECTION 2. Amend Section 92.152, Property Code is amended to read as follows:

(a) This subchapter does not apply to:

(1) a room in a hotel, motel, or inn or to similar transient housing;  
[or]

(2) residential housing owned or operated by a public or private college or university accredited under Section 61.003, Education Code; ~~[-or]~~

(3) residential housing operated by preparatory schools accredited by the Texas Education Agency, a regional accrediting agency, or any accrediting agency recognized by the commission of education; or

(4) to a temporary residential tenancy created by a contract for the sale of real estate in which the buyer occupies the property prior to closing or the seller occupies the property after closing for a contemplated term not to exceed 90 days.

(b) Except as provided by Subsection (a) of this section, a [A] dwelling to which this subchapter applies includes:

(1) a room in a dormitory or rooming house ~~[not excluded by Subsection (a) of this section];~~

(2) a mobile home;

(3) a single family house, duplex, or triplex; and

(4) a living unit in an apartment, condominium, cooperative, or townhome project.

Amendment No. 4 was adopted without objection.

**SB 1426**, as amended, failed to pass to third reading. (Black and Junell recorded voting no)

**SB 337 ON SECOND READING**  
**(Carter - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

**SB 337**, A bill to be entitled An Act relating to requiring the use of protective helmets for bicycle safety.

**SB 337** was read second time earlier today and was postponed until this time.

**Amendment No. 1**

Representative Hochberg offered the following amendment to the bill:

Amend **SB 337** at the end of SECTION 1 of the bill (house committee report, page 5, between lines 17 and 18) by adding a new section to read as follows:

"Sec. 758.007. CONFLICT WITH LOCAL LAW. This chapter does not preempt or supersede a local ordinance, order, or regulation that becomes effective on or after September 1, 1995, and that is more stringent than this chapter."

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Hirschi offered the following amendment to the bill:

Amend **SB 337** as follows:

- 1) On page 3, lines 3 and 4 strike all language on line 3 and all language on line 4 before the word "may".
- 2) On page 3, lines 9 and 10 strike all language.
- 3) On page 4, line 11, strike the language between the word "age" and the semicolon.
- 4) On page 4, after line 14, insert the following new subsection and renumber remaining subsections accordingly:

Sec. 758.004. FEE ON SALE OF NEW BICYCLE. (a) A wholesale or retail bicycle dealer who sells or offers to sell new bicycles not for resale shall collect at the time and place of sale a \$5 bicycle safety fee for each new bicycle sold.

(b) A dealer required to collect a fee under this section:

(1) shall list as a separate item on an invoice a fee due under this section: and

(2) except as provided by Subsection (c), on or before the 20th day of the month following the end of each calendar month and on a form and in the manner prescribed by the comptroller, shall file a report with and shall remit to the comptroller the amount of fees collected during the proceeding calendar month.

(c) A person required to collect a fee under this section who collects less than \$50 from a calendar month or less than \$150 for a calendar quarter

is not required to file a monthly report but shall file a quarterly report with and make a quarterly remittance to the comptroller. The quarterly report and remittance shall include fees collected during the preceding calendar quarter. The report and remittance are due not later than the 20th day of the month following the end of the calendar quarter.

(d) An invoice or other record required by this section or rules of the comptroller must be maintained for at least four years after the date on which the invoice or record is prepared and be open for inspection by the comptroller at all reasonable times.

(e) The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(f) The comptroller may deduct a percentage of the fees collected under this section not to exceed four percent of receipts, to pay the reasonable and necessary cost of administering and enforcing this section. The comptroller shall credit the amount deducted to the general revenue fund. The balance of the fees, penalties and interest collected by the comptroller under this section shall be deposited to the credit of the bicycle safety fund created under Section 758.003.

Representative Rabuck raised a point of order against further consideration of **SB 337** on the grounds that **SB 337** violates Rule 4, Section 32, of the House Rules.

The point of order was withdrawn.

Amendment No. 2 failed of adoption.

A record vote was requested.

**SB 337**, as amended, failed to pass to third reading by (Record 509): 68 Yeas, 73 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Averitt; Bailey; Bosse; Carter; Clemons; Coleman; Conley; Counts; Crabb; Cuellar, H.; Culberson; Danburg; Davila; Davis; Dear; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Farrar; Giddings; Goodman; Gray; Greenberg; Haggerty; Hawley; Hernandez; Hill; Hirsch; Hochberg; Hudson; Hunter, B.; Hunter, T.; Janek; Jones, J.; Junell; Longoria; Luna; Maxey; McCoulskey; Moreno; Munoz; Naishtat; Oakley; Oliveira; Place; Price; Puente; Rangel; Rodriguez; Romo; Rusling; Sadler; Seidlits; Shields; Smithee; Solis; Thompson; Turner, B.; Van de Putte; West; Willis; Yarbrough; Zbranek.

Nays — Allen; Alvarado; Berlanga; Black; Brimer; Carona; Chisum; Combs; Cook; Corte; Craddick; Cuellar, R.; De La Garza; Delisi; Denny; Elkins; Finnell; Gallego; Glaze; Goolsby; Grusendorf; Gutierrez; Hamric; Harris; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Holzheuser; Horn; Howard; Jackson; Johnson; Kamel; Krusee; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McDonald; Moffat; Mowery; Nixon; Ogden; Patterson; Pickett; Pitts; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Saunders; Serna; Siebert; Solomons; Staples; Swinford; Talton; Telford; Tillery; Torres; Turner, S.; Uher; Walker; Williamson; Wilson; Wohlgemuth; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent — Brady; Edwards; Jones, D.; King; Kubiak; Park; Stiles; Wolens.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 509. I intended to vote yes.

Goolsby

I was shown voting no on Record No. 509. I intended to vote yes.

McDonald

### SB 1487 ON SECOND READING (Conley - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1487**, A bill to be entitled An Act relating to prohibiting the consideration of race or ethnicity as a factor in adoption or foster care placements.

The bill was read second time.

#### Amendment No. 1

Representatives Conley and S. Turner offered the following amendment to the bill:

Amend **SB 1487** by striking all below the enacting clause and substituting:  
SECTION 1. Section 162.308, Family Code, as added by HB 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 162.308. RACE OR ETHNICITY. (a) The department, a county child-care or welfare unit, or a licensed child-placing agency may not make an adoption placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child ~~[deny or delay placement of a child for adoption or otherwise discriminate on the basis of the race or ethnicity of the child or the prospective adoptive parents]~~.

(b) Unless an independent psychological evaluation specific to a child indicates that placement with a family of a particular race or ethnicity would be detrimental to the child, the department, county child-care or welfare unit, or licensed child-placing agency may not deny, delay, or prohibit the adoption of a child because the department, county, or agency is attempting to locate a family of a particular race or ethnicity.

(c) This section does not prevent or limit the recruitment of minority families as adoptive families, but the recruitment of minority families may not be a reason to delay placement of a child with an available family of a race or ethnicity different from that of the child.

(d) A state or county employee who violates this section is subject to immediate dismissal. A licensed child-placing agency that violates this section is subject to action by the licensing agency as a ground for revocation or suspension of the agency's license.

(e) The department by rule shall define what constitutes a delay under Subsections (b) and (c).

(f) A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this section by issuing appropriate orders. A action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An application or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reaonable attorney's fees.

SECTION 2. Section 264.108, Family Code, as added by HB 655, Acts of the 74th Legislature Regular Session, 1995, is amended to read as follows:

Sec. 264.108. RACE OR ETHNICITY. (a) The department may not make a foster care placement decision on the presumption that placing a child in a family of the same race or ethnicity as the race or ethnicity of the child is in the best interest of the child [prohibit or delay the placement of a child in foster care or remove a child from foster care or otherwise discriminate on the basis of race or ethnicity of the child or the foster family].

(b) Unless an independent psychological evaluation specific to a child indicates that placement or continued living with a family of a particular race or ethnicity would be detrimental to the child, the department may not:

(1) deny, delay, or prohibit placement of a child in foster care because the department is attempting to locate a family of a particular race or ethnicity; or

(2) remove a child from foster care with a family that is of a race or ethnicity different from that of the child.

(c) The department may not remove a child from foster care with a family that is of a race or ethnicity different from that of the child for the sole reason that continued foster care with that family may:

(1) strengthen the emotional ties between the child and the family; or

(2) increase the potential of the family's desire to adopt the child because of the amount of time the child and the family are together.

(d) This section does not prevent or limit the department's recruitment of minority families as foster care families, but the recruitment of minority families may not be a reason to delay placement of a child in foster care with an available family of a race or ethnicity different from that of the child.

(e) An employee who violates this section is subject to immediate dismissal.

(f) The department by rule shall define what constitutes a delay under Subsections (b) and (d).

(g) A district court, on the application for an injunction or the filing of a petition complaining of a violation of this section by any person residing in the county in which the court has jurisdiction, shall enforce this section by issuing appropriate orders. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. An applicant or petitioner who is granted an injunction or given other appropriate relief under this section is entitled to the costs of the suit, including reasonable attorney's fees.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several

days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

### **Amendment No. 2**

Representative Conley offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Conley/S. Turner to **SB 1487** as follows:

(1) On Page 2, strike all that appears on Lines 9 and 10.

(2) On Page 2, Line 11, strike "(f)" and substitute in lieu thereof "(e)".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

**SB 1487**, as amended, was passed to third reading.

### **SB 1674 ON SECOND READING (Dear - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1674**, A bill to be entitled An Act relating to the authority of the board of directors of the Tarrant County Water Control and Improvement District No. 1 to provide certain benefits.

The bill was read second time.

Representative G. Lewis raised a point of order against further consideration of **SB 1674** on the grounds that **SB 1674** violates Rule 4, Section 34(b)(3), of the House Rules.

The speaker overruled the point of order.

**SB 1674** was passed to third reading.

### **SB 1232 ON SECOND READING (Stiles - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1232**, A bill to be entitled An Act relating to a motor vehicle self-insurance program for volunteer fire departments.

The bill was read second time.

### **Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Duncan, Representative Stiles offered the following committee amendment to the bill:

Amend **SB 1232** as follows:

(1) On page 5, line 6, strike "September 1, 1998" and substitute "August 31, 1997".

(2) On page 5, line 12, strike "September 1, 1998" and substitute "August 31, 1997".

Amendment No. 1 was adopted without objection.

**SB 1232**, as amended, was passed to third reading. (Heflin recorded voting no)

**SB 1443 ON SECOND READING**  
**(Wilson - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1443**, A bill to be entitled An Act relating to administrative licensing.

The bill was read second time and was passed to third reading.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 23, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 553** by Hunter, Bob (Sponsor-Moncrief), relating to the operation of community mental health and mental retardation centers and of psychiatric centers created through contract by a community mental health center (amended).

**HB 1094** by Heflin (Sponsor-Armbrister), relating to delinquency charges in retail charge agreements (committee substitute).

**HB 1227** by Bosse (Sponsor-Whitmire), relating to repossession of a motor vehicle for repair charges.

**HB 2766** by Smithee, Van de Putte, Kamel (Sponsor-Turner, Jim), relating to providing fairness and choice to patients and providers under managed care health benefit plans (committee substitute and amended).

Respectfully,  
Betty King  
Secretary of the Senate

**SB 1636 ON SECOND READING**  
**(Brimer - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1636**, A bill to be entitled An Act relating to the regulation of the practice of selling real estate.

The bill was read second time.

Representative Seidlits raised a point of order against further consideration of **SB 1636** on the grounds that **SB 1636** violates Rule 4, Section 20(b), of the House Rules.

The speaker sustained the point of order.

**SB 101 ON SECOND READING**  
**(Craddick - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 101**, A bill to be entitled An Act relating to the payment of an ad valorem tax under protest.

The bill was read second time and was passed to third reading.

**SB 1295 ON SECOND READING**  
**(Hightower - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1295**.

**CSSB 1295**, A bill to be entitled An Act relating to use of the open market purchase procedure for certain state travel services and to sunsetting the General Services Commission's provision of certain travel services.

**CSSB 1295** was read second time and was passed to third reading.

**SB 1227 ON SECOND READING**  
**(Duncan - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1227**, A bill to be entitled An Act relating to the regulation of electric cooperative corporations.

The bill was read second time.

**Amendment No. 1**

Representative Duncan offered the following amendment to the bill:

Amend **SB 1227** in SECTION 1 of the bill (house committee printing) as follows:

(1) Strike the introductory language (page 1, lines 3-5) and substitute the following:

SECTION 1. Subtitle E, Title II, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 2.2011 to read as follows:

(2) At the beginning of the new law added by the section (page 1, line 6), strike "Sec. 37A." and substitute "Sec. 2.2011. COOPERATIVE CORPORATIONS.".

(3) In Subsection (b) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 2, line 8), strike "Section 17(a)" and substitute "Section 2.101(a)".

(4) In Subsection (j) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 5, line 22), strike "Section 43" and substitute "Section 2.212".

(5) In Subsection (j) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 5, line 23), strike "Article VI of this Act" and substitute "this subtitle".

(6) In the first sentence of Subsection (o) of redesignated Section 2.2011, Public Utility Regulatory Act of 1995, as added by the bill (page 8, lines 6 and 11), strike "Section 42" and substitute "Section 2.211".

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2**

Representative Duncan offered the following amendment to the bill:

Amend **SB 1227** on page 8, line 15, by adding a new subsection (p) to read as follows:

(p) An electric cooperative that has elected to be exempt from rate regulation may by resolution adopt retail tariffs or contracts containing charges that are less than average embedded cost retail rates but equal to or greater than the cooperative's marginal cost. The standards of section 2.052, rather than other standards in this section, shall be applied in reviewing rates adopted pursuant to this subsection, however, the cooperative's marginal cost shall be the lowest marginal cost of any of the cooperative's wholesale power suppliers.

Amendment No. 2 was adopted without objection.

**SB 1227**, as amended, was passed to third reading. (Heflin, Horn, and Kamel recorded voting no; Wohlgemuth yes)

#### **SB 1509 ON SECOND READING (H. Cuellar - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 1509**.

**CSSB 1509**, A bill to be entitled An Act relating to the establishment of colonia self-help centers in certain counties.

**CSSB 1509** was read second time.

#### **Amendment No. 1**

Representative Wohlgemuth offered the following amendment to **CSSB 1509**:

Amend **CSSB 1509** as follows:

(1) Add a new section, appropriately numbered, to read as follows:

SECTION 2. Notwithstanding Chapter 2105, Government Code, the Texas Department of Housing and Community Affairs may allocate not more than 10 percent of the yearly allocation of community development block grant funds received from the United States Department of Housing and Urban Development to the colonia set-aside fund to achieve the purposes of Subchapter Z, Chapter 2306, Government Code, as added by this Act. The department may allocate an amount from the colonia set-aside fund that is not more than two and one-half percent of the yearly allocation of community development block grant funds received from the United States Department of Housing and Urban Development for funding the operation of the colonia self-help centers. The provisions of this section expire on August 31, 1997.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

**CSSB 1509**, as amended, was passed to third reading.

**SB 336 ON SECOND READING**  
**(Oliveira - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 336**.

**CSSB 336**, A bill to be entitled An Act relating to notice and cure provisions required for a defaulting purchaser under a contract for deed and to requirements for and loans associated with a contract for deed transaction in certain counties.

**CSSB 336** was read second time.

**Amendment No. 1**

Representative Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336**, on page 7, line 13, strike "(1) a survey or plat of the real property;" and substitute "(1) a survey, which was completed within the past year, or plat of a current survey of the real property;"

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336** by inserting the following between line 6 and 7, on page 6:

(d) This subchapter does not apply to executory contracts that provide for the delivery of a deed from the seller to the purchaser within 180 days of the date of the final execution of the executory contract.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representatives Munoz and Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336**, in SECTION 3 of the bill, by striking proposed Section 5.096, Property Code (House Committee Report, page 10, lines 23-27, and page 11, lines 1-10), and substituting the following:

Sec. 5.096. CONTRACT TERMS PROHIBITED. A seller may not include as a term of the executory contract a provision that:

(1) imposes an additional late-payment fee that exceeds the lesser of:

(A) eight percent of the monthly payment under the contract;

or

(B) the actual administrative cost of processing the late payment;

(2) prohibits the purchaser from pledging the purchaser's interest in the property as security to obtain a loan to place improvements, including utility improvements or fire protection improvements, on the property; or

(3) imposes a prepayment penalty if the purchaser elects to pay the entire amount due under the contract before the scheduled payment date under the contract.

Amendment No. 3 was adopted without objection.

#### **Amendment No. 4**

Representatives Munoz and Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336**, in SECTION 3 of the bill, in proposed Section 5.097, Property Code, by striking Subsections (a) and (b) (House Committee Report, page 11, lines 12-24) and substituting the following:

(a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason not later than the seventh day after the date of the contract.

(b) The seller shall include in immediate proximity to the space reserved in the executory contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE NEXT SEVEN DAYS. THE DEADLINE FOR CANCELING THE CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS RIGHT.

(Stiles in the chair)

Amendment No. 4 was adopted without objection.

#### **Amendment No. 5**

Representative Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336** as follows:

(1) In SECTION 3 of the bill, in proposed Section 5.097, Property Code, strike Subsection (a) (House Committee Report, page 11, lines 11-15), and substitute the following:

(a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason by sending by telegram, by mailing, or by delivering in person a signed and dated written notice of cancellation to the seller not later than the 14th day after the date of the contract.

(b) If the purchaser cancels the contract as provided by Subsection (a), the seller shall, not later than the 10th day after the date the seller receives the purchaser's notice of cancellation:

(1) return to the purchaser the executed contract and any property exchanged or payments made by the purchaser under the contract; and

(2) cancel any security interest arising out of the contract.

(2) In SECTION 3 of the bill, in proposed Section 5.097, Property Code (House Committee Report, page 11, line 16 through page 13, line 1), reletter Subsections (b), (c), and (d) accordingly.

Amendment No. 5 was adopted without objection.

#### **Amendment No. 6**

Representatives Munoz and Oliveira offered the following amendment to **CSSB 336**:

Amend **CSSB 336**, in SECTION 3 of the bill, by striking proposed Section 5.097, Property Code (House Committee Report, page 11, line 11, through page 13, line 1), and substituting the following:

Sec. 5.097. PURCHASER'S RIGHT TO CANCEL CONTRACT WITHOUT CAUSE. (a) In addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract for any reason by sending by telegram or certified or registered mail, return receipt requested, or by delivering in person a signed, written notice of cancellation to the seller not later than the 14th day after the date of the contract.

(b) If the purchaser cancels the contract as provided by Subsection (a), the seller shall, not later than the 10th day after the date the seller receives the purchaser's notice of cancellation:

(1) return to the purchaser the executed contract and any property exchanged or payments made by the purchaser under the contract; and

(2) cancel any security interest arising out of the contract.

(c) The seller shall include in immediate proximity to the space reserved in the executory contract for the purchaser's signature a statement printed in 14-point boldface type or 14-point uppercase typewritten letters that reads substantially similar to the following:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME DURING THE NEXT TWO WEEKS. THE DEADLINE FOR CANCELING THE CONTRACT IS (date). THE ATTACHED NOTICE OF CANCELLATION EXPLAINS THIS RIGHT.

(d) The seller shall provide a notice of cancellation form to the purchaser at the time the purchaser signs the executory contract that is printed in 14-point boldface type or 14-point uppercase typewritten letters and that reads substantially similar to the following:

NOTICE OF CANCELLATION

(date of contract)

YOU MAY CANCEL THE EXECUTORY CONTRACT FOR ANY REASON WITHOUT ANY PENALTY OR OBLIGATION BY (date).

(1) YOU MUST SEND BY TELEGRAM OR CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR DELIVER IN PERSON A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE TO (Name of Seller) AT (Seller's Address) BY (date).

(2) THE SELLER SHALL, NOT LATER THAN THE 10TH DAY AFTER THE DATE THE SELLER RECEIVES YOUR CANCELLATION NOTICE:

(A) RETURN THE EXECUTED CONTRACT AND ANY PROPERTY EXCHANGED OR PAYMENTS MADE BY YOU UNDER THE CONTRACT; AND

(B) CANCEL ANY SECURITY INTEREST ARISING OUT OF THE CONTRACT.

I ACKNOWLEDGE RECEIPT OF THIS NOTICE OF CANCELLATION FORM.

\_\_\_\_\_  
(Date) (Purchaser's Signature)

I HEREBY CANCEL THIS CONTRACT.

\_\_\_\_\_  
(Date) (Purchaser's Signature)

(e) The seller may not request the purchaser to sign a waiver of receipt of the notice of cancellation form required by this section.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Chisum offered the following amendment to **CSSB 336**:

Amend **CSSB 336** as follows:

1) On page 6, line 2, after the word "measuring" strike the word **five** and substitute the word one.

Amendment No. 7 was adopted without objection.

#### **Amendment No. 8**

Representative Pickett offered the following amendment to **CSSB 336**:

Amend **CSSB 336** by striking proposed Section 5.100(b), Property Code (page 14, lines 6-10), and substituting the following:

(b) The statement must include the following information:

(1) the amount paid under the contract;

(2) the remaining amount owed under the contract;

(3) the number of payments remaining under the contract; and

(4) the amounts paid to taxing authorities on the purchaser's behalf if collected by the seller.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative Pickett offered the following amendment to **CSSB 336**:

Amend **CSSB 336** by adding the following appropriately numbered section and renumbering the remaining sections of the bill appropriately:

SECTION \_\_\_\_\_. Section 51.002(a), Property Code, is amended to read as follows:

(a) A sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month, or, if the first Tuesday of the month is designated as a national or state holiday under Section 662.003, Government Code, on the first day after the first Tuesday of the month that is not a national or state holiday. The sale must take place at the county courthouse in the county in which the land is located, or if the property is located in more than one county, the sale may be made at the courthouse in any county in which the property is located. The commissioners court shall designate the area at the courthouse where the sales are to take place and shall record the designation in the real property records of the county. The sale must occur in the designated area. If no area is designated by the commissioners court, the notice of sale

must designate the area at the courthouse where the sale covered by that notice is to take place, and the sale must occur in that area.

Amendment No. 9 was adopted without objection.

**CSSB 336**, as amended, was passed to third reading. (T. Hunter recorded voting no)

**SB 1453 ON SECOND READING**  
**(Danburg - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 1453**, A bill to be entitled An Act relating to the electronic availability of legislative information through the Internet.

The bill was read second time.

**Amendment No. 1**

Representative Danburg offered the following amendment to the bill:

Amend **SB 1453** (House Committee Report) by renumbering Sections 2 and 3 as Sections 3 and 4 and adding a new Section 2 to read as follows:

SECTION 2. Section 323.014, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The council may consider the needs of persons with disabilities when making decisions regarding the formats in which information is made available under this chapter.

Amendment No. 1 was adopted without objection. (Cook, Finnell, Hawley, and Johnson recorded voting no)

**Amendment No. 2**

Representative Danburg offered the following amendment to the bill:

Amend **SB 1453** by adding an appropriately numbered section to read as follows:

SECTION \_\_\_\_ Chapter 323, Government Code, is amended by adding Section 323.018 to read as follows:

Sec. 323.018. RECORDS OF DRAFTING AND OTHER REQUESTS. Records relating to requests of council staff for the drafting of proposed legislation, or for assistance, information, advice, or opinion, are not public information.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Ehrhardt offered the following amendment to the bill:

Amend **SB 1453** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION \_\_\_\_ Chapter 306, Government Code, is amended by adding Sections 306.005 and 306.006 to read as follows:

Sec. 306.005. USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS IN POLITICAL ADVERTISING PROHIBITED. (a) A person may not use audio or video materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature in political advertising.

(b) After a formal hearing held as provided by Subchapter E, Chapter 571, the Texas Ethics Commission may impose a civil penalty against a person who violates this section. The amount of the penalty may not exceed \$5,000 for each violation.

(c) Subsection (a) does not prohibit describing or quoting the verbal content of the audio or video materials in political advertising.

(d) In this section, "political advertising" has the meaning assigned by Section 251.001, Election Code.

Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS. (a) A person may not use audio or video materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature for a commercial purpose unless the legislative entity that produced the audio or video materials or under whose direction the audio or video materials were produced gives its permission for the person's commercial use and:

(1) the person uses the audio or video materials only for educational or public affairs programming, including news programming, that does not also constitute a use prohibited under Section 306.005; or

(2) the person transmits to paid subscribers an unedited feed of the audio or visual materials.

(b) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class C misdemeanor.

(c) The legislative entity that produced the audio or video materials or under whose direction the audio or video materials were produced shall give its permission to a person to use the materials for a commercial purpose described by Subsection (a)(1) if the person or the person's representative submits to the legislative entity a signed, written request for the use that:

(1) states the purpose for which the audio or video materials will be used, and the stated purpose is allowed under Subsection (a)(1); and

(2) contains an agreement by the person that the audio or visual materials will not be used for a commercial purpose other than the stated purpose.

(d) The legislative entity is not required to give its permission to any person to use the materials for a purpose described by Subsection (a)(2) and may limit the number of persons to whom it gives its permission to use the materials for a purpose described by Subsection (a)(2).

(e) Subsection (a) and an agreement under Subsection (c)(2) do not prohibit compiling, describing, quoting from, analyzing, or researching the verbal content of the audio or visual materials for a commercial purpose.

(f) In addition to the criminal penalty that may be imposed under Subsection (b), the attorney general shall enforce this section at the request of the legislative entity by bringing a civil action to enjoin a violation of Subsection (a) or of an agreement under Subsection (c)(2).

(g) In this section, "commercial purpose" means a purpose that is intended to result in a profit or other tangible benefit.

Amendment No. 3 was adopted without objection. (Carona, Cook, Culberson, Delisi, Eiland, Elkins, Goolsby, Greenberg, Hilbert, Hilderbran, Horn, Howard, Jackson, Janek, King, R. Lewis, Marchant, Solomons, Swinford, Torres, West, and Wohlgemuth recorded voting no)

**SB 1453**, as amended, was passed to third reading. (Allen, Averitt, Black, Brimer, Clemons, Counts, R. Cuellar, Driver, Finnell, Gutierrez, Heflin, B. Hunter, T. Hunter, Junell, Kamel, Munoz, Nixon, Patterson, Reyna, Shields, Siebert, Smithee, Solis, and Talton recorded voting no)

### **SB 243 ON SECOND READING**

**(Denny - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 243**, A bill to be entitled An Act relating to educating juveniles under the custody of the Texas Youth Commission in violence prevention and conflict resolution.

The bill was read second time and was passed to third reading.

### **SB 1375 ON SECOND READING**

**(Krusee - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 1375**, A bill to be entitled An Act relating to a municipal utility district composed of noncontiguous areas located in the extraterritorial jurisdiction of two municipalities.

The bill was read second time.

### **Amendment No. 1**

Representative Hilderbran offered the following amendment to the bill:

Amend **SB 1375**, in SECTION 1, in proposed Section 54.0162, Water Code, as follows:

(1) Add the following subsections:

(e) The provisions of this section also apply to a municipal utility district that:

(1) was created before 1980;

(2) has an area of 700 acres or less; and

(3) is located, in part, within the extraterritorial jurisdiction of two or more municipalities and, in part, outside municipal extraterritorial jurisdiction in the unincorporated area of a county.

(f) A municipal utility district acting under Subsection (e) shall comply with the notification and selection requirements of this section. A municipality affected by the decision of a municipal utility district acting under Subsection (e) shall comply with the requirements of Subsections (b) and (c).

(g) A municipal utility district described by Subsection (e) shall notify the affected municipality within 30 calendar days of notice of intent to annex by that municipality.

(2) On page 1, line 10, after "that", insert "on January 1, 1995".

Amendment No. 1 was adopted without objection.

**SB 1375**, as amended, was passed to third reading.

**SB 1302 ON SECOND READING**  
**(Berlanga - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 1302**, A bill to be entitled An Act relating to the regulation of physician assistants; providing a criminal penalty.

The bill was read second time.

**Amendment No. 1**

Representative Berlanga offered the following amendment to the bill:

Amend **SB 1302** as follows:

- 1) Strike SECTION 2. page 24 beginning on line 2 and continuing to page 25, line 16.
- 2) Strike SECTION 3. page 25 beginning on line 17 and continuing to page 30, line 10.
- 3) Strike SECTION 4. page 30 beginning on line 11 and continuing to page 32, line 19.
- 4) Renumber SECTION 5. as SECTION 2.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Berlanga offered the following amendment to the bill:

Amend **SB 1302**, SECTION 1, page 11, line 5 by deleting subpart (8) beginning on line 5 and substituting therefore the following:

(8) requesting, receiving and signing for the receipt of pharmaceutical sample prescription medications ~~[professional samples]~~ and distributing the samples to patients in specific practice setting where the physician assistant is authorized to prescribe pharmaceutical medications and sign prescription drug orders at a site ~~[serving medically underserved populations]~~ as provided by Section 3.06(d)(5) and (6), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and its subsequent amendments, or as otherwise authorized by this act or board rule; ~~[and]~~

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Berlanga offered the following amendment to the bill:

Amend **SB 1302** as follows:

- 1) Strike SECTION 2. page 24 beginning on line 2 and continuing to page 25, line 16.

2) Strike SECTION 3. page 25 beginning on line 17 and continuing to page 30, line 10.

3) Strike SECTION 4. page 30 beginning on line 11 and continuing to page 32, line 19.

4) Renumber SECTION 5. as SECTION 2.

Amendment No. 3 was adopted without objection.

**SB 1302**, as amended, was passed to third reading.

**SB 1303 ON SECOND READING  
(Berlanga - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 1303**, A bill to be entitled An Act relating to the practice of medicine, including the rehabilitation of impaired physicians and the unlicensed practice of medicine; providing a penalty.

The bill was read second time and was passed to third reading.

**SB 695 ON SECOND READING  
(Oakley - House Sponsor)**

The chair laid before the house, as postponed business, on its second reading and passage to third reading,

**SB 695**, A bill to be entitled An Act relating to the personnel records of certain law enforcement officers and fire protection personnel; providing a criminal penalty.

**SB 695** was read second time earlier today and was postponed until this time.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Oakley offered the following committee amendment to the bill:

Amend **SB 695** as follows:

On page 1, line 11, after the word "under" and before "Chapter" insert "Chapter 411, Government Code, or".

Representative Oakley moved to table Amendment No. 1.

The motion to table prevailed.

**Amendment No. 2**

Representative Oakley offered the following amendment to the bill:

Amend **SB 695** on Page 2 by striking all of Sec. 614.073. and renumbering the following Sections appropriately.

Amendment No. 2 was adopted without objection.

**SB 695**, as amended, was passed to third reading. (Heflin and Madden recorded voting no)

**SB 1606 ON SECOND READING**  
**(Yost - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 1606**, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Travis County Municipal Utility District No. 3, Travis County Municipal Utility District No. 4, Travis County Municipal Utility District No. 5, Travis County Municipal Utility District No. 6, Travis County Municipal Utility District No. 7, Travis County Municipal Utility District No. 8, and Travis County Municipal Utility District No. 9.

The bill was read second time.

Representative Maxey moved to table **SB 1606**.

A record vote was requested.

The motion to table was lost by (Record 510): 53 Yeas, 83 Nays, 5 Present, not voting.

Yeas — Alonzo; Alvarado; Bailey; Bosse; Coleman; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Edwards; Ehrhardt; Eiland; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hirschi; Hochberg; Hudson; Jones, J.; Junell; Longoria; Luna; Marchant; Maxey; McDonald; Moreno; Naishtat; Ogden; Oliveira; Pickett; Place; Price; Ramsay; Rangel; Raymond; Rodriguez; Romo; Sadler; Seidlits; Serna; Stiles(C); Turner, S.; Van de Putte; Wolens; Yarbrough.

Nays — Alexander; Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Culberson; Denny; Driver; Duncan; Dutton; Farrar; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Madden; McCall; Moffat; Mowery; Munoz; Nixon; Oakley; Park; Patterson; Pitts; Puente; Rabuck; Reyna; Rhodes; Rusling; Saunders; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Tillery; Torres; Turner, B.; Walker; West; Williamson; Wilson; Wohlgemuth; Woolley; Yost.

Present, not voting — Mr. Speaker; Finnell; McCoulskey; Thompson; Uher.

Absent — Berlanga; Dukes; Elkins; Hightower; Jones, D.; Kubiak; Telford; Willis; Zbranek.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of illness:

Kubiak on motion of Brady.

**SB 1606 - (consideration continued)**

**SB 1606** was passed to third reading. (Finnell recorded present, not voting)

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Rodriguez moved to suspend all necessary rules to allow the Committee on Local and Consent Calendars to meet while the house is in session.

The motion prevailed without objection.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, at this time, speakers committee room.

**SB 48 ON SECOND READING**

**(Allen, Naishtat, and Kamel - House Sponsors)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 48**, A bill to be entitled An Act relating to a crime victim's right to appear in person before members of the Board of Pardons and Paroles.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Allen offered the following committee amendment to the bill:

Amend **SB 48** as follows:

(1) In SECTION 1 of the bill, in proposed Section 8(f)(2), Article 42.18, Code of Criminal Procedure (Senate Engrossment, page 1, line 21 through page 2, line 1), strike "to provide a written statement and to appear in person before the board members to present a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim." and substitute the following:

"to provide a written statement. The parole panel also shall allow one person to appear in person before the board members to present a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim. The person may be the victim of the prisoner's crime, or if the victim has a legal guardian or is deceased, the legal guardian of the victim or close relative of the deceased victim. If more than one person is otherwise entitled under this subdivision to appear in person before the board, only the person chosen by all persons entitled to appear as their sole representative may appear before the board."

(2) In SECTION 2 of the bill, in proposed Article 56.08(a)(8), Code of Criminal Procedure (Senate Engrossment, page 3, line 21), between "Paroles" and the period, insert "as provided by Section 8(f)(2), Article 42.18".

Amendment No. 1 was adopted without objection.

**SB 48**, as amended, was passed to third reading.

**SB 134 ON SECOND READING**

**(Thompson, Farrar, and Greenberg - House Sponsors)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 134**, A bill to be entitled An Act relating to the punishment for certain assaults committed by one member of a family against another family member.

The bill was read second time and was passed to third reading.

**SB 789 ON SECOND READING**  
**(Goodman - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 789**.

**CSSB 789**, A bill to be entitled An Act relating to possession and delivery of a child in an emergency without a court order.

**CSSB 789** was read second time and was passed to third reading.

**SB 814 ON SECOND READING**  
**(Siebert - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 814**.

**CSSB 814**, A bill to be entitled An Act relating to the requirement of commercial licenses to catch, unload, and sell aquatic products.

**CSSB 814** was read second time.

(Speaker in the chair)

**Amendment No. 1**

Representative Gray offered the following amendment to **CSSB 814**:

Amend **CSSB 814** by striking the enacting clause.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representative Uher offered the following amendment to **CSSB 814**:

Amend **CSSB 814** by striking Section 7 and Section 8 and by striking:  
on page 2, line 24

on page 3, line 7 after "," or a commercial shrimp boat license captain's license" and on line 12, after "," or a commercial shrimp boat license captain's license"

and on line 27, page 3, by striking all of line 27

and on page 4, line 7, strike "the commercial shrimp boat's captain's license number" and on page 4, after the "," on line 27, strike the following language through line 1 on page 5 strike all between lines 2 & 7, page 5 strike lines 20 & 21, page 5

Amendment No. 2 was adopted without objection.

**CSSB 814**, as amended, was passed to third reading. (T. Hunter and Solis recorded voting no)

**SB 628 ON SECOND READING**  
**(Van de Putte - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 628**, A bill to be entitled An Act relating to access to pharmaceutical services through certain managed care health plans.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative G. Lewis, Representative Van de Putte offered the following committee amendment to the bill:

Amend **SB 628** by adding a new subsection (4) page 2, line 13

(4) The provisions of this subsection (a), as they pertain to a health maintenance organization managed care plan, shall apply only to the portion of a health maintenance organization's certificated service area located in counties with a population of 40,000 or less as reflected in the most recent official census.

Representative Van de Putte moved to table Amendment No. 1.

The motion to table prevailed.

**Amendment No. 2**

Representative Van de Putte offered the following amendment to the bill:

Amend **SB 628** as follows:

- (1) On page 1, line 22, strike all new language.
- (2) On page 2, line 1, strike all new language.
- (3) On page 2, line 2, strike all new language.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Allen offered the following amendment to the bill:

Amend **SB 628** by striking SECTION 6 and adding a new SECTION 6 to read as follows:

SECTION 6. (a) The provisions of this act do not apply to a group model health maintenance organization that is a state certified health maintenance organization that provides the majority of its professional services through a single group medical practice that is formally affiliated with the medical school component of a Texas state supported public college or university and that received its certification as a health maintenance organization prior to November 1, 1981, or,

(b) a non-profit group practice model health maintenance organization that provides pharmaceutical services to its enrollees only through pharmacies located at medical offices owned, leased or contracted for by the health maintenance organization and that received its certification prior to November 1, 1985.

Amendment No. 3 was adopted without objection.

**SB 628**, as amended, was passed to third reading.

**SB 281 ON SECOND READING**  
**(Nixon - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 281**.

**CSSB 281**, A bill to be entitled An Act relating to the punishment for the offense of evading arrest or detention and certain civil consequences of using a vehicle to evade arrest or detention.

**CSSB 281** was read second time.

Representative Dutton raised a point of order against further consideration of **CSSB 281** on the grounds that **CSSB 281** violates Rule 8, Section 1, of the House Rules.

The point of order was withdrawn.

Representative Nixon moved to postpone consideration of **CSSB 281** until 11:40 p.m. today.

The motion prevailed without objection.

**SB 337 - MOTION TO RECONSIDER**

Representative G. Lewis moved to reconsider the vote by which **SB 337** failed to pass to third reading.

The motion to reconsider was lost.

**SB 284 ON SECOND READING**  
**(Moffat - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 284**, A bill to be entitled An Act relating to the liability of a peace officer who provides standby assistance to a victim of family violence.

The bill was read second time and was passed to third reading.

**SB 1106 ON SECOND READING**  
**(B. Turner - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1106**, A bill to be entitled An Act relating to the management of wildlife resources; providing a penalty.

The bill was read second time.

Representative Maxey raised a point of order against further consideration of **SB 1106** on the grounds that **SB 1106** violates Rule 4, Section 32(c)(4), of the House Rules.

The point of order was withdrawn.

Representative B. Turner moved to postpone consideration of **SB 1106** until 11:45 p.m. today.

The motion prevailed without objection.

**SB 1388 ON SECOND READING**  
**(Pickett - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1388**, A bill to be entitled An Act relating to the creation of a county mass transit authority.

The bill was read second time.

**Amendment No. 1**

Representative Pickett offered the following amendment to the bill:

Amend **SB 1388** by striking SECTION 2 of the bill (Committee printing page 28, line 12), and substituting the following:

SECTION 2. This Act takes effect September 1, 1997.

Amendment No. 1 was adopted without objection.

**SB 1388**, as amended, was passed to third reading.

**SJR 46 ON SECOND READING**  
**(Cook - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

**SJR 46**, A joint resolution proposing a constitutional amendment permitting an encumbrance to be fixed on homestead property for an owelty of partition and the refinance of a lien against a homestead.

**SJR 46** was read second time earlier today, amended, and was postponed until this time.

A record vote was requested.

**SJR 46**, as amended, was adopted by (Record 511): 136 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Edwards; Ehrhardt; Eiland; Elkins; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nays — Dutton; Farrar; Puente; Rabuck; Telford.

Present, not voting — Mr. Speaker(C); Counts.

Absent, Excused — Kubiak.

Absent — Dukes; Moreno; Price; Tillery; Willis; Zbranek.

**SB 1671 ON SECOND READING**  
**(Seidlits - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**SB 1671**, A bill to be entitled An Act relating to the validation of governmental acts and proceedings by municipalities.

The bill was read second time.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Tillery, Representative Seidlits offered the following committee amendment to the bill:

Amend **SB 1671** by striking SECTION 8 of the bill and renumbering the following SECTIONS accordingly.

Amendment No. 1 was adopted without objection.

Representative Gray moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Representative Gray moved to table Amendment No. 1.

The motion to table prevailed.

**SB 1671** was passed to third reading.

**CSSB 281 ON SECOND READING**  
**(Nixon - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading, the complete committee substitute for **SB 281**.

**CSSB 281**, A bill to be entitled An Act relating to the punishment for the offense of evading arrest or detention and certain civil consequences of using a vehicle to evade arrest or detention.

**CSSB 281** was read second time earlier today and was postponed until this time.

Representative Dutton raised a point of order against further consideration of **CSSB 281** on the grounds that **CSSB 281** violates Rule 8, Section 1, of the House Rules.

The point of order was withdrawn.

**Amendment No. 1**

Representative Dutton offered the following amendment to **CSSB 281**:

Amend **CSSB 281** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTION accordingly:

SECTION \_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.131 to read as follows:

Art. 2.131. LIMITATION ON USE OF MOTOR VEHICLE. A peace officer is justified in pursuing a person by motor vehicle at speeds that are not reasonable and safe under the conditions existing at the time and place of pursuit only if the officer reasonably believes pursuit at those speeds is immediately necessary to arrest a person engaged in the commission of a felony offense other than theft of a motor vehicle or an offense under Section 31.07, Penal Code.

Representative Nixon moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 512): 104 Yeas, 43 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Junell; Kamel; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Torres; Turner, B.; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Nays — Alonzo; Alvarado; Bailey; Coleman; Conley; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Gallego; Giddings; Gray; Gutierrez; Hernandez; Hirschi; Hochberg; Hudson; Jones, D.; Jones, J.; King; Lewis, G.; Longoria; Luna; Maxey; Moreno; Naishtat; Price; Puente; Rangel; Rodriguez; Romo; Solis; Thompson; Tillery; Uher; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kubiak.

Absent — Turner, S.

**Amendment No. 2**

Representative Dutton offered the following amendment to the **CSSB 281**:

Amend **CSSB 281** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTION accordingly:

SECTION \_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.131 to read as follows:

Art. 2.131. LIMITATION ON USE OF MOTOR VEHICLE. A police officer is justified in pursuing a person by motor vehicle at speeds that are not reasonable and safe under the conditions existing at the time and place of pursuit only if the officer reasonably believes pursuit at those speeds is immediately necessary to arrest a person engaged in the commission of a felony offense other than theft of a motor vehicle or an offense under Section 31.07, Penal Code.

Representative Nixon moved to table Amendment No. 2.

The motion to table prevailed.

### **Amendment No. 3**

Representative Dutton offered the following amendment to **CSSB 281**:

Amend **CSSB 281** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTION accordingly:

SECTION \_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.131 to read as follows:

Art. 2.131. LIMITATION ON USE OF MOTOR VEHICLE. A peace officer is justified in pursuing a person by motor vehicle at speeds that are safe under the conditions existing at the time and place of pursuit only if the officer reasonably believes pursuit at those speeds is immediately necessary to arrest a person engaged in the commission of a felony offense other than theft of a motor vehicle or an offense under Section 31.07, Penal Code.

Amendment No. 3 was withdrawn.

### **Amendment No. 4**

Representative Dutton offered the following amendment to **CSSB 281**:

Amend **CSSB 281** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTION accordingly:

SECTION \_\_. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.131 to read as follows:

Art. 2.131. LIMITATION ON USE OF MOTOR VEHICLE. A police officer is justified in pursuing a person by motor vehicle at speeds that are safe under the conditions existing at the time and place of pursuit only if the officer reasonably believes pursuit at those speeds is immediately necessary to arrest a person engaged in the commission of a felony offense other than theft of a motor vehicle or an offense under Section 31.07, Penal Code.

Representative Nixon moved to table Amendment No. 4.

The motion to table prevailed.

A record vote was requested.

**CSSB 281**, was passed to third reading by (Record 513): 109 Yeas, 31 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kuempel; Lewis, R.; Madden; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Tillery; Torres; Turner, B.; Walker; West; Williamson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nays — Alonzo; Bailey; Coleman; Conley; Davis; Dukes; Dutton; Ehrhardt; Farrar; Giddings; Gutierrez; Hernandez; Hochberg; Hudson; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; Moreno; Naishtat; Price; Puente; Rangel; Romo; Solis; Thompson; Turner, S.; Uher; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kubiak.

Absent — Berlanga; Edwards; Marchant; Oakley; Rodriguez; Telford; Willis; Zbranek.

### STATEMENT OF VOTE

On Monday, May 22, I was shown voting yes on Record No. 500. I intended to vote no on SB 102.

Hudson

### RECESS

Representative Maxey moved that the house recess until 10 a.m. Wednesday, May 24.

The motion prevailed without objection.

The house accordingly, at 12:52 a.m. Wednesday, May 24, recessed until 10 a.m. Wednesday, May 24.

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